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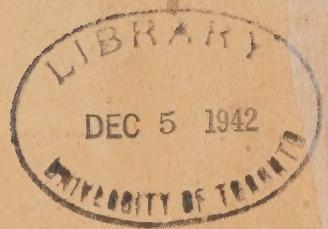
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REPORT

OF

Ontario Commission on
Railway Taxation
1905

PRINTED BY ORDER OF
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TORONTO:

Printed and Published by L. K. CAMERON, Printer to the King's Most Excellent Majesty
1905



WARWICK BRO'S & RUTTER, LIMITED, PRINTERS,
TORONTO.

To His Honour WILLIAM MORTIMER CLARK, L.L.D.,
Lieutenant-Governor of the Province of Ontario, etc., etc., etc.

MAY IT PLEASE YOUR HONOUR:—

I beg to submit the accompanying Report of the Commissioners appointed to inquire into and report upon the various phases of railway legislation in force in the United States affecting the taxation of railways, and as directed by your Honour's Commission dated the 20th day of May, 1904.

I have the honour to be,
Your most obedient servant,

H. J. PETTYPIECE,
Chairman.

TORONTO, April 1st, 1905.

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Report on Railway Taxation.

In pursuance of the duties entrusted to us, as a Commission on Railway Taxation, we have sought to obtain information on the subject from all available sources. Since, outside of Canada, Britain and the United States are the two chief countries in which railroads are owned and operated as private enterprises, we naturally turned to them as sources of the most valuable information. The American conditions, however, are most nearly similar to our own. In consequence of their numerous experiments, their constitutional variations and the different lines of their past experiences, no two States of the American Union have as yet quite reached the same practical conclusions. The United States, therefore, affords a uniquely instructive field for the practical study of taxation, as of many other economic and constitutional problems.

In considering the States to be visited, we selected those which were among the most typical and important in themselves, which were most likely to be instructive for Ontario, and in which our Canadian railway systems owned or controlled more or less important sections, or with whose lines they were most intimately connected. We, therefore, visited the following States: Michigan, Indiana, Illinois, Wisconsin, Minnesota, Maine, Massachusetts, New York, Pennsylvania and New Jersey. We interviewed various Boards of Assessment or Taxation, and particularly those officials in each State whose duties required them to deal more or less constantly with the taxation of railways and similar corporations. We were everywhere treated with the utmost kindness and courtesy, while in most cases unusual pains were taken and facilities granted to put us in possession of all possible information, not only upon the subject of railway taxation, but upon all the other varied phases of taxation with which it was associated. From official sources we also obtained much information as to the various methods of controlling rates and otherwise regulating the business of railways and other corporations. We were furnished in every State with all available laws, reports and statistics on the subject, including several quite rare reports. The information obtained from our interviews with the State officials was characterized alike by modesty and frankness, in commendation of the merits, and admission of the defects of their respective systems of taxation. In all cases these interviews afforded indispensable light upon the details of the actual working of the various State systems.

In order that we might have the benefit of viewing the subject from all points of view, we visited the chief northern cities, and interviewed those representatives of leading railways and other corporations who were understood to have most carefully studied the subject of taxation. At their hands also we received the most courteous treatment and much valuable information, given frankly and freely, the more so, in some cases, that it was not intended for specific quotation.

We also took advantage of every opportunity to discuss the subject with professors of the leading universities who are specialists in taxation or other phases of public finance. At Washington, we visited the headquarters of the Interstate Commerce Commission and obtained much information of a

special character dealing with railway returns and the forms prescribed for their arrangement and collection.

We also interviewed several journalists and others who had devoted special attention to such subjects as taxation, corporation finance, or railroad administration. In all cases we were treated with patience and generosity, and furnished with all possible information, oral and printed. We have thus been enabled to view the subject of railway taxation from many sides and in various settings, and if we have not been able to do justice to the subject the fault is certainly our own.

In the main body of our report we have sought to place before the members of the Legislature and the general public of Ontario, an adequate and yet not too voluminous summary of the evidence which we have collected. We have attempted to give, as far as possible in the words of the original reports, laws and interviews, a survey of the system of taxation, as applied to railways and other transportation and transmission companies, in each State, and of the efforts which have been made, in recent years at least, to alter and amend the various systems.

In presenting a summary of the British system, we have availed ourselves more especially of the exhaustive and voluminous reports of the Royal Commission on Local Taxation, recently completed.

We have added also a survey of the taxation of railways in the various Provinces of the Dominion.

We have been indebted, for valuable assistance, to such a large number of persons that it is impossible to acknowledge our obligations in detail. We must content ourselves with a slight reference to the very efficient and painstaking services of the Secretary of the Commission, Mr. W. B. Wilkinson, who, in addition to contributing valuable elements to our discussions, undertook the greater part of the work of preparing our itinerary, arranging interviews and procuring documents and materials.

The question as to the most suitable method for the taxation of railways is simply a section, though in Canada to-day the most important section, of the general problem as to the taxation of economic corporations. The problem of the taxation of corporations is a comparatively new one in Canada, but it is certain to continue to enlarge in importance and complexity, until it far overshadows all other aspects of direct taxation.

A glance over the pages of the official gazettes alike of the Dominion and of the several Provinces will indicate the astonishing growth of corporate enterprise in Canada within the past few years. In this respect we find ourselves following in the wake of the development which has been going on for a considerable period in the United States, and which is still far from showing any sign of abatement. Turning to the older countries of Europe, we observe that, notwithstanding long centuries of previous economic development, they, too, are following the Anglo-Saxon world, in the creation and use of these newer economic organs, quite as eagerly as the younger countries just rising to self-conscious nationality.

On every hand we find corporate enterprise more and more extensively covering at once the older economic fields and the newer enterprises of production and service. In Canada we have every reason to expect that in time the greater part of the capital of the country will take the form of corporate property, and that the individual citizens will hold an ever-increasing part of their wealth in the shape of corporate securities, representing either shares in enterprises, or loans advanced to support or extend their business.

Inasmuch, then, as the taxes which are required for the enlarging needs of the public service must be derived from the general wealth of the community, they must be levied in increasing measure upon a constantly expanding range of corporate property or income. For this reason, the problem of corporate taxation has come to represent, if not for the present yet at least for the immediate future, the most important feature of direct taxation. The proper solution of this problem is, therefore, a matter of the greatest concern. The importance of inaugurating a proper system of corporate taxation is emphasized when we learn from the experience of those who have gone before us in these lines, that, while it is comparatively easy to select any one of several methods of taxation, when we are entering upon new fields, yet it is well nigh impossible to remedy mistakes once a system comes into full working order. As time passes and important concrete interests adjust themselves more or less to the special method adopted, even though it may turn out to be very imperfect, it will be found exceedingly difficult to change to what may be plainly recognized as a better system, on account of the dislocation of interests and obligations, private and public, which a change would involve. Nothing in the wide range of American experience is more impressive than the constant testimony which the actual workings of their systems of taxation bear to the all important necessity of getting started on right lines. And to the American testimony may be added the British, especially on the subject of railway taxation.

There is, indeed, at present one important tendency, which suggests some modification of the future prospect of the prevalence of corporate property, and that is the possibility of a very extensive series of experiments in the line of public ownership of corporate enterprises. This tendency is of the utmost importance from the point of view of taxation, inasmuch as public undertakings, whether municipal, provincial or national, have been hitherto almost uniformly exempt from ordinary taxation, while, at the same time, it is quite obvious that their expansion would steadily increase the need for civic expenditure. But increasing civic expenditure would have the effect of adding to the burdens of taxation upon the remaining enterprises in private or corporate hands. In not a few cases the relatively diminished range of private property would find itself liable to the double handicap of having to pay increased taxes, and at the same time, in more or less direct measure, of requiring to compete with public enterprises backed by public resources, or public credit, and free from taxation.

This feature of the tax problem is introduced here merely as a reminder of a possible new and important factor of disturbance for the future, and as, in that case, raising the very interesting question as to whether it might not be absolutely necessary, in justice to private enterprise and in the face of increasing public burdens, to require that all public owned and operated enterprises should bear their fair share of taxation, along with private property. In this connection it is to be noted that the undertaking of economic production, or service, under the auspices of a government, is a very different matter from the rendering of those public duties, for the discharge of which the government is justified in collecting taxes from all forms of property, whether directly or indirectly benefitted.

Our more immediate problem, however, is that connected with the taxation of corporate enterprises, which are still in the hands of associated private individuals.

Owing to special historic conditions, partly of a political and partly of a financial nature, which need not be entered upon here, the Canadian

Provinces have found themselves brought into Confederation and maintained so far without the necessity of resorting to a regular system of direct taxation, for the support of Provincial treasuries. The chief mainstay of Provincial finance has been the large annual subsidy received from the Dominion. In Ontario, this is supplemented by a considerable sum as interest from capital also held by the Dominion, and these contributions are paralleled by a large revenue derived from the disposal of the natural capital of the Province in the shape of lands, mines and forests, more particularly the latter. Thus, out of a revenue of about \$4,500,000, \$3,000,000 are accounted for in nearly equal proportions from the Dominion Government and from the natural resources of the Province. Something over another half million is obtained from succession duties and the recently adopted taxes on corporations. One-third of the remaining million comes from license fees, and a good part of the residue is a partial return for special services.

In consequence of these resources, the Province has never yet been constrained to resort to the ordinary system of miscellaneous direct taxation, or the general property tax, that having been reserved entirely for the support of local or municipal institutions. As a result, the people of Ontario have hitherto lived in blissful ignorance of the trials and difficulties of administering a general property tax, for the double purpose of furnishing a municipal and a Provincial revenue. They have thereby escaped the fate of practically every American State. Our American friends have a very vivid realization of what is involved in a system of taxation, which requires that every ratepayer throughout the State shall contribute, not only a municipal and school tax, but an additional tax for the support of the State government. Our county councillors have had some experience of the difficulties of making an equitable and fair rating of the various interests as between the different townships, in their contributions to the county tax. They may imagine, therefore, what would be necessary to effect, or at least to attempt to effect—for it seldom gets beyond that—an adjustment or equalization of taxation throughout every municipality in the Province, with a view to having each one contribute its proper share towards the Provincial revenue. Yet this is the problem, which is practically always facing the people of the United States, in providing for their State revenues.

With enlarging economic interests, and with the maze of economic complexity which is presented by a large city, the difficulty of the State or Provincial problem increases so rapidly that it baffles human ingenuity to provide even an approximate solution. "We could get on not so badly," said an Illinois State official, "if it were not for the city of Chicago, but that upsets all our calculations".

It has been in no small measure due to the difficulties which this problem introduces, that there have resulted those endless experiments in the matter of taxation, and especially in the taxation of corporations, which are met with in a survey of the fiscal experiences of the American States.

Their varied experience, however, is of the utmost significance for us, as indicating, on the one hand, the fortunate position which Canadians in this and other Provinces have hitherto enjoyed, and, on the other, the necessity for our considering what precautions it may be necessary for us to take, if we would avoid falling into the entanglements which are inevitable where the same system of direct taxation has to be employed alike for local and State purposes. The efforts now being made in the more

enlightened States to escape from these difficulties show that what we enjoy as a birthright others are anxious to purchase at a great price.

Now it is quite evident to anyone who has followed the financial history and the economic development of this Province, that, while our Provincial needs are steadily growing, we cannot expect to always meet them either by periodic raids upon the Dominion Treasury, under the euphemism of "seeking better terms", or by continually increasing drafts upon our gifts from nature, especially our forests and lands. Even with the present mainstays for our income, we must, before long, consider what other important sources of revenue there may be to which our Provincial Treasury may have recourse. Otherwise, we may find ourselves face to face with the necessity of resorting to direct taxation on the same lines as the municipalities, just when the difficulty of working such a system has increased to the point of practical impossibility, on a fair and equitable basis.

We enjoy at present virtually three different sources of revenue, corresponding to our three political divisions as a federal state. We have a customs tax administered by the Dominion Government for its own support, and as the source of the subsidies which it pays to the Provinces. As a Province, we have the subsidy from the Dominion, our natural capital, our license fees, succession duties and a few corporation taxes, none of which interfere, on the one hand, with the fiscal system of the Dominion, nor, on the other, with the taxation employed in the municipalities. Yet, just as the Dominion subsidizes the Province, so, out of our Provincial revenue, we supplement local revenues for educational, charitable and other purposes. Thus distribution of revenue is quite consistent with independence of taxation, a principle which is also recognized in the United States.

It is quite plain that the only source of revenue, as yet tapped by the Province, which is capable of indefinite expansion with the increase of Provincial resources and Provincial needs, is the tax upon successions and corporations, provided these taxes are maintained upon purely Provincial lines, as distinct from a system of municipal taxation. When we turn to the experience of the United States, and ask upon what lines they are proceeding in the attempt to emancipate themselves from the confusion between municipal and State taxes, we find that they lie for the most part in the directions which we have indicated.

It follows, then, that one of the most important objects to be achieved, or, as in the case of Ontario, to be maintained, is to preserve the financial independence of the three phases of our government, the Federal, Provincial and Municipal. There will always be disputes connected with the adjustments of tariffs and the relative burdens of customs taxes borne by different interests, but these questions are confined to the arena of Dominion politics, and do not affect the equally burning questions in municipal regions, as to the relative amounts of direct taxation contributed by different individuals and different classes in the same municipality. It is to be observed that while each one professes to desire perfect equality of taxation upon property which is subject to any specific system of taxation, no great difficulty is raised where the same property is subject to totally different kinds of taxation by different authorities. Thus, the income of the citizens may be drawn upon in totally different proportions in customs duties, as compared with the contributions to direct municipal taxation. Hence, if corporations were taxed on the distinctively corporate phases of their wealth, by the Provincial Treasury, and upon a different principle from ordinary private property, there might be less tendency to make those

impossible demands which are now so generally urged, that corporate property should be taxed on exactly the same basis and by exactly the same standards as private property.

What then, it may be asked, are the differences between private and corporate property, which would justify the taxing of private property on one basis and corporate property on another, and which, in turn, might sanction the allotting of private property to direct municipal taxation, and the taking of corporate property, other than real estate at least, as the basis of Provincial taxation, and upon a somewhat different principle? In making this distinction it is assumed that the stock of corporations, as held by individuals, is not to be regarded as private property for purposes of taxation, since to tax both the corporation as a whole and the shareholders on their shares would be to tax the same property for the same purpose, twice over.

In tracing the natural distinction between private and corporate property, as regards a fairly uniform basis for taxation, we find the following important differences.

In the first place private property is commonly located within definite municipal limits. A private individual may, indeed, own property in several municipalities, but his holdings are represented in the vast majority of cases by separate parcels of property, which can be easily dealt with in each municipality. Corporate property, on the other hand, very frequently extends over several municipalities, as in the case of steam and electric railroads, telegraph and telephone companies, express companies, insurance companies, banks, trust and loan companies, and even various manufacturing and trading companies having branches and sections of their business in different municipalities. The characteristic of all such corporate enterprises is, that the value of the business which they carry on in any particular municipality, is more or less intimately dependent upon the business carried on by them in one or more other municipalities, rural or urban, and cannot, therefore, be properly estimated or taxed in any one place, or even any series of places.

Again, it is always comparatively easy to locate or reach the owners of private property, who are, for the most part, individuals having a definite residence, even though it may not always be in the district where their property is situated and taxed. But it is usually practically impossible to get at all the owners of the more extensive forms of corporate property. A corporation whose capital is represented by shares, and perhaps by other securities in the nature of mortgage bonds, may, in proportion to its size or importance, find the owners of its capital scattered over the civilized world. Moreover, as the shares, and especially the bonds are easily transferable and many of them extensively dealt in upon stock exchanges, the ownership of the capital of a corporation may be continually shifting, according to the activity of the stock market. It is much more convenient and accurate, therefore, to simply tax the corporation and make no attempt to locate the owners of its capital. But, in taxing the corporation and not the owners of its capital, the business of the corporation as a whole has to be estimated, and that again leads to the difficulties just noted, where the corporate enterprise extends over several or possibly many municipalities.

Once more, private property is related to its owners in a very definite and personal manner. It is entirely under personal control and may be disposed of freely and completely. Hence it has a ready and obvious market value. The property of a corporation, on the other hand, is not in

the same way under the control of the shareholders. Their shares do not give to them individual command over the actual property of the corporation. They have simply control over the management or direction of it, and that only in the proportion of their holdings of the company's shares. The permanent property of the corporation is as seldom in the market in detail as it is in the aggregate. Only its shares and its bonds, on the one hand, and its products or services, on the other, are normally in the market. For those who have not a controlling voice in the management, the position of the stockholder is much the same as that of the bondholder, who has not even a legal voice in the management, but simply advances capital to the corporation on the strength of the security which it can offer for principal and interest.

Further, it is practically impossible to get at the details of the personal property and income of private individuals. In these respects, however, the larger corporations are in the opposite position. There is in no practical sense a market for the property of corporations. Hence their general property cannot be adequately estimated on any other ground than what it will earn. But their income or earning power can, in the gross, at least, be very definitely arrived at. Just because of the peculiar structure of a corporation and the technical nature of the rights vested in the shareholders and bondholders, it is absolutely necessary, as a basis for its legal and economic existence, that its transactions should be carefully recorded. There must be a record of the disposition of its capital stock, of the details of the business carried on, and, in consequence, of the annual outlay and income. There may, indeed, be much variety in the classification of the items of outlay and income; of capital expenditure, maintenance and working expenses, and consequently of net profit. But the general details of outlay and income must be regularly recorded if the corporation is to hold together and carry on its business. In the case of private property, however, where the ownership vests in a single individual, it is only a matter of expediency and not of necessity, that the individual should keep an accurate record of his income and outlay. Even where such a record is kept it cannot be made a matter of public record and investigation, as in the case of a corporation. Thus, just where private property can be traced and valued, corporate property cannot be traced and valued, and where corporate property is most definite, as in the matter of its gross income, private property, outside of fixed salaries, is, for the most part, wholly indefinite, and even where known cannot be made a matter of public record.

We have by no means exhausted the differences and contrasts between private and corporate property, but in the light of the facts here pointed out it is quite obvious that the popular belief and claim that corporate property can and should be assessed and taxed on exactly the same basis as private property, is quite impossible of realization.

A survey of the actual practice of taxation in different states and provinces, reveals the fact that, where both corporations and private individuals are professedly taxed on the same basis of real and personal property, the greatest inequality actually prevails. Thus, if the tax is levied upon tangible property, many corporations, outside of railroads, having little real property in proportion to their business, and their personal property being practically impossible to get at, they are found to be taxed very lightly as compared with individuals. But, where the so-called *ad valorem* or general property tax has been applied to corporations, in such a way that their real and personal property is valued by capitalizing the income which

the corporations derive from their whole business, as in the case of the new valuations in Michigan and Wisconsin, and, in milder form, in several other States, the result has been to very considerably overtax corporations in proportion to private property. It being possible to get at the total earnings of the corporations and to make an arbitrary determination, in the first place, as to what is net profit and, in the second place, as to the proper percentage at which it should be capitalized, the ad valorem value may be fixed at a very high sum. Thus, in several States the railroad assessment alone amounts to one-sixth or one-seventh of the total property of the State. If it were possible to get at the income of private individuals, derived from their various callings and businesses, with the same fullness as in the case of corporations, and if they were to be taxed on the capitalized value of their net incomes, at the same percentages adopted in estimating the property of corporations, there would undoubtedly be a very startling increase in the general property valuation of any community. But, as we have seen, it is utterly impossible to get at private incomes, and it is universally complained, on the part of assessors and assessment boards, that it is exceedingly difficult to get anything like an adequate return of private property. Hence, to place the capitalized income of corporations upon the same basis as the general property of private individuals, is plainly neither an accurate nor an equitable adjustment of taxation, as between corporate and private property.

✓ Since, then, it is impossible to equitably tax private property and corporate property on the same basis, there is no necessary injustice or inequality in taxing them upon different principles or by different public authorities. In fact, it is the attempt to tax them both upon the same principle which works injustice and inequality, and it is only by taxing them upon different principles suited to each form of property that it is possible to attain to approximate justice and equality.

So far, then, we have seen that there is a decided advantage in distinguishing the different sources of revenue for Dominion, Provincial and Municipal government, even though one or more of these authorities may afterwards turn over part of its revenue to another. We have seen, also, that there is, in general, a natural and necessary distinction between private and corporate property, as regards the features of them which can be most accurately known and measured, and which are, therefore, the most expedient and equitable phases for taxation. And we have also seen that, in the case of the largest and most important corporations, their property and their business may extend throughout several, and possibly many different municipalities, and that, therefore, it is most natural and expedient that their taxation should be, for the most part, at least, undertaken by Provincial authority at narrowest. Also, if the Provinces are in need of additional revenue for the future, that the prospective expansion of corporate property affords a normal and natural basis for the increase of Provincial revenue.

Having thus dealt with the question of corporate taxation in its larger and more general aspects, we are now in a position to apply these general conditions to the taxation of railroad corporations; and we are also in a position to deal more intelligently with the special problems and unique features of railroad taxation, and, incidentally, with the taxation of those closely associated corporations also connected, in one form or other, with the services of transportation and transmission.

Probably the most striking characteristic of the railroad service, from the point of view of taxation, is the unusual amount of physical property

which is required to be held or employed by railroads, in order to adequately discharge the functions of transportation. They must acquire, in the first place, a continuous strip of real estate, known as the right of way, throughout the entire length of the service, including all the branch lines. In towns and cities, also, just where property is most valuable, railways require additional area for the accommodation of their cars while loading and unloading, for the shunting and making up of trains, for the storage and repair of cars and engines, for the supply of fuel, and above all, for the erection of costly terminals for the accommodation of passengers and goods. But even the acquiring of the original right of way is usually the smallest part of the necessary outlay. The right of way, however carefully located, is confined to a certain range of territory in order to give accommodation to the public, or to make connection between important centres or sections of country, though the intermediate regions may afford little traffic. In putting the roadway into condition for the hauling of trains, a very considerable expenditure per mile is necessary in the best of country, and in the worst the range of outlay is very wide. Immense sums are expended in cuttings and fillings, in bridges and possibly tunnels, and all this quite irrespective of the amount of traffic which is to be obtained when the line is completed. Indeed, it is often found that the region furnishing the smaller or less valuable traffic is the one in which it is most costly to build the railroad, while the easier territory for railroad operations is likely to be the most thickly settled and the most productive of traffic.

Now all this is in striking contrast with the building and equipment of factories, warehouses, stores, offices, etc., for though one line of industry may require more accommodation in the way of buildings and machinery than another, yet all the establishments in the same line of business require much the same accommodation for a given output, and where building sites are higher trade is better. The economy in the size and organization of a plant is about the only important difference between industries of the same class. But, in the case of railroads, the outlay required to afford a certain service in one region may differ very greatly from the outlay necessary to afford a similar service in another region.

The significance, for the problem of taxation, of all these very peculiar conditions of the railroad service, is simply this, that it is utterly impossible to determine the capacity of a railroad to pay taxes by taking an inventory of its physical property, with a view to determine what it cost to produce a fully equipped line in any particular part of the country. On the principle of making railroads pay taxes on the same basis as private individuals railroads would probably be taxed in inverse ratio to adjoining property, since the heaviest expenditure would be in the roughest country. Obviously cost of production or reproduction is no basis for the taxation of railroads.

Can we fall back upon market value, or what a railroad would sell for? Here, in the first place, we are confronted with the fact that there is no market for railroads, even as entities, much less in sections. Railroads, it is true, occasionally appear to be bought and sold. But even in these rare cases the apparent sales take place under very special conditions, and never under circumstances that could properly be said to establish a market value. So-called railroad sales really represent negotiations looking to the coalescence of hitherto independent properties which can be more economically worked together, or connected with the reconstruction of roads which have got into such financial embarrassment that they can no longer maintain themselves upon the old lines, and must, therefore, pass into other

hands or under other management. While, then, these occasional reconstructions, combinations and changes of control do actually take place, the financial terms on which the transactions are effected give no reliable clue to the real values of the railroads concerned. But if whole railroads have no determinable market, much less have the sections of railroads within municipalities, or even within Provinces or States. The very expenditure of large sums upon a section of railroad may render that section utterly valueless for any other local purpose, or any connection with adjoining property.

✓ The State of Michigan in determining to change from the gross earnings to the ad valorem system of taxing its railroads, made the most elaborate and perfect attempt on record to determine what the physical property of the railroads was worth on the basis of the cost of reproduction less the normal depreciation for wear and use. But when, at a cost of \$60,000, this very elaborate and accurate appraisal was made, what was the practical value of it for taxation purposes? Virtually nil. The real valuation was determined on quite other grounds and mainly, as was admitted by those making the assessment, on the basis of earnings. The result was that some roads were valued considerably above the cost of reproduction, while others were valued very much below it, and where the valuation was much the same as that of the appraisal it was a mere coincidence. Where the valuation was above the appraisal the difference was called the intangible or franchise value, but where it was below the appraisal the difference was not named, though more or less intangible also. But, though somewhat costly for Michigan, the experiment tried there has been exceedingly valuable for the rest of the world, and therefore, by us at least, the outlay need not be regretted. The experiment has demonstrated that, however serviceable such a valuation may be in affording an independent and scientific basis for judging the cost of production of modern railroads, under the varying conditions of such a state as Michigan, it is quite futile as a means of getting at the commercial value of a railroad as a going concern, or as a basis for taxation.

✓ What other methods are there then for the valuation of railroads? A method which finds favor with many is that known as the stock and bond theory of valuation. While it may be admitted that there is no real market for railroads as a whole, yet it is quite obvious that there is a market for the stocks and bonds of a railroad. Hence, taking the values of these securities in the open market, have we not a perfectly free and well balanced estimate of financial experts and capitalists generally as to what any railroad is worth from the point of view of an investment?

Assuming for the moment that the market prices of stocks and bonds represent the genuine conception of investors as to the value of these securities, on what ground, we may ask, is that conclusion reached, and on what principle does it vary? First of all, then, the normal object of an investment in securities may be taken to be the desire to obtain a profit from buying and selling them, or a revenue from holding them for dividends. As a matter of fact we find that, in general, railroad and other securities are high or low on the market according to the dividends on the stock, or the interest which the bonds bear. But this is not always the case, and never perhaps wholly the case. Observation will prove to us that stocks and bonds bearing the same rates of dividend or interest, will sell for varying prices. So far as this is due to estimates based on investment, it reflects the judgment of the public as to the steadiness of the rate of dividend and the security of the principal. Where, as in the case of bonds, the rate of

interest is fixed, the relative security of the principal and the regular payment of the interest has most to do with the valuation. So far, then, as the prices of stocks and bonds are fixed by the judgment of the investing public, they simply represent the earning capacity of the railroads and vary with it. Hence the taxation of stocks and bonds would be equivalent to the taxation of the capitalized value of the earnings of the railroads. ✓

But there are numerous special considerations which have to be taken into account, and which in many states and especially under modern conditions greatly impair the directness and simplicity of the stock and bond basis of taxation. That which chiefly concerns us in Canada is the very serious difficulty arising in connection with the taxation of bonds. In point of law, bonds differ very greatly from stocks. Stocks or shares legally represent an ownership in a corporation. The tax on stocks, therefore, is simply a tax on the ownership of the property. Bonds, on the other hand, represent merely a security, in the nature of a mortgage, held against a property for money loaned to its owner for its development or operation. The bond gives no title to the property pledged and no control over it or its management, so long, at least, as the stipulated interest is regularly paid and the security not impaired. Even, therefore, where capital stock may be assessed, bonds may not be assessable. According to decisions of the United States courts, bonds are not assessable where the bondholders reside beyond the boundaries of the assessing state. In Canada no attempt is made to assess foreign bondholders, though income derived from investments in the country may be assessed. If, however, assessment is confined to the market value of stocks only, and only those bondholders living in the Province can be taxed on their investments here, then Ontario would certainly find itself, where several American States do, in a very uncertain position, on the stock and bond basis.

In a State like Massachusetts, with a very strict corporation law, and whose railroads were built from the issue of fully paid up shares, with but little capital raised on bonds, and where even the bonds are largely held within the State itself, there was for a long time not much difficulty experienced in working the system of taxing the railroad corporations on their stocks and the bondholders on their investments. But of late years, even in Massachusetts, difficulties have arisen, such as have always been felt in much greater measure in the newer states of the west. In the newer states, and in a province like Ontario, a great number of the railroad enterprises of the country, more especially of late years, have been financed chiefly by the issue of bonds. The original stock in the case of the older lines like the Grand Trunk has commonly ceased to be of much market value, owing to the earnings being absorbed in paying interest on later bond issues. But according to the more modern methods of financing corporations, much of the stock may be issued as a bonus to those taking the bonds, or assigned to promoters and held at low values mostly for the purpose of keeping control of the system. Under such conditions the real capital value of the majority of the railways is represented by the bonds. But these securities, in the case of our Canadian roads, are for the most part held outside of Ontario, as well as outside of Canada. The attempt, therefore, to get at the true assessment of the railroads of Ontario by taking the market value of their shares would result in a very unequal and unsatisfactory basis of taxation. Even in an old and wealthy State like Pennsylvania the inequality which results from such a situation is strikingly brought out in some tables given in the section of the report dealing with that State. See pages 137-153.

There are several other reasons why the market value of the capital stock is not a reliable basis for determining the value of railroads or other transportation corporations. But sufficient has been said to indicate that the local and practical difficulties connected with the stocks and bonds of the railroads of Ontario, put them out of the question, as a feasible basis for taxation. At the same time, we have seen that, so far as these adequately represent the value of railways or other corporate enterprises, they do so simply by reflecting the earning power of the different properties.

√ There remains, then, only the earning power of the railroad as a standard of valuation and a basis for taxation. The property of a railroad, unlike most other forms of real estate or personal property, is worth very little outside its use as a railroad. But the value of its use as a railroad depends entirely on what traffic it has and what revenue that traffic will produce. The earning power of a railroad, on the other hand, is not necessarily tied down to the value of the real estate or personal property which it represents, as measured by the cost of reproduction. The carrying capacity or productive power of a railroad is far more elastic than the productive power of a factory. Hence the earning power of a railroad, as of most other transportation and transmission enterprises, is quite independent of the ordinary estimates of the real and personal property employed, except where these estimates are simply capitalized expressions of the earning power itself.

Now inasmuch as, on the one hand, there is no market for railroads and no facility for converting railroad property to other uses, and, on the other, there is no specific limit to the service which a railroad may render, it is plain that the only true estimate of a railroad property is its earning power or its income. Its income, therefore, would appear to be the proper and indeed the ideal basis for taxation, if it is found to be capable of discovery and definition without too elaborate or costly a mechanism and without insuperable legal difficulties. As far as legal right goes, it is undoubtedly within the power of the Provinces of Canada to tax the railroads on their earnings, as far as these earnings are derived from traffic within the Provinces, or are an equitable share of the earnings obtained from international or interprovincial traffic.

In the United States, however, owing to the wording and interpretation of the constitution, it is held by the courts that taxation by any State of the earnings of a railroad derived from interstate traffic, is illegal. Consequently, even where the earnings of a railroad are made the basis of taxation, the tax laws are careful to state that the tax is a license tax or a franchise tax, merely measured by gross earnings; and it is often further guarded by some such qualifying clause as, "derived entirely from traffic within the State". In several States where the gross earnings tax is accepted by both the people and the railways, it is thought that the law is not really constitutional, but, as neither party cares to bring the matter to a test, it is permitted to stand. In Wisconsin, the gross earnings tax, lately abolished, was declared by several judges to be unconstitutional, but they refused to give judgments adverse to the State on account of the confusion which would be introduced into the State revenue.

When such States as Michigan and Wisconsin, which had previously taxed the railroads on the gross earnings basis, reached the conviction that the railroads were not paying as much as they might be made to pay, we find that, instead of simply raising the rate of the existing tax from, say four to, say five or six per cent., they found it expedient to change the basis of taxation. This was obviously done because they knew that the raising of the rate would meet with the opposition of the railroads and

would probably result in the tax law being declared unconstitutional, thereby paralyzing a large section of the revenue of the State until a new method of taxation should be adopted. Yet, as already indicated, and as an examination of its operation will show, the so-called ad valorem system of these and other States is really a roundabout method of getting at earnings once more on a higher rate of taxation.

But, while the earnings of the railroads are admitted to be the chief factor, others are asserted also, because the commissioners, as some of them frankly admit, in order to protect themselves from an attack on their assessments, will not admit how they arrive at their valuations. In Michigan, however, when the change from the gross earnings to the ad valorem system was being introduced and a costly appraisal of the railroads was undertaken, it was really intended and expected that a totally new and independent basis of taxation would be arrived at, and that all the items of valuation, being determined by experts, would become matter of public record, so that not only the railroads but the public would be able to see just how the valuation of each railroad was made up. But, as already indicated, though the appraisal was most accurately accomplished, it was found impossible to accept it. Hence, in Michigan, as in the other states taxing on the ad valorem or general property system, the basis of valuation is not made public, and cannot be, indeed, for it is mere guess work. When asked in Michigan, Indiana or Wisconsin how values were arrived at, the general answer was, "We rely chiefly on earnings, but we take everything into account, physical property, market value of stocks and bonds, character of the country through which the road passes, nature of the business done, etc., etc." How accurate the general estimate may be no one can tell. The best reference is naturally to earning power, but there, as we have seen, everything hinges, first, on what is net earnings; second, at what percentage net earnings should be capitalized; and third, how this will compare with the taxation of private property, and since private property cannot be treated as corporate property there is no means of determining this last.

We see why it is, then, that though on almost every hand, even in the states which believe themselves forced to abandon it, the earning power of corporations is held to be the only reliable and satisfactory basis of taxation, practically none of the American States find themselves able to frankly and fully accept it. Where it is employed, it is under some disguise or legal fiction, and commonly with the tacit consent of taxpayer and taxing authority that the fiction shall not be called in question. Here in Canada, however, we are not subject to such artificial restrictions, and there is no reason why we should not avail ourselves fully and freely of a system of railroad taxation on the basis of earnings.

The next question is, should we take net or gross earnings as a basis? ✓ Here there is little dispute as to what is desirable, other things being equal. Net earnings would undoubtedly be an ideal basis for taxation where all corporations have net earnings, or where net earnings could be readily discovered and separated from the other factors which make up gross earnings. But, in the first place, corporations have not always net earnings, and yet it could not be admitted, on any sound basis of public finance, that where an individual or a corporation had extensive possessions, but for a time no net earnings, they could be permitted to escape taxation.

If, for the temporary encouragement of any industry, or the maintenance of a public service, the government or the people choose to specifically exempt any industry or undertaking from taxation, and thereby assume the extra burden themselves, well and good. But this is a very

different proposition from the principle that where there are no net earnings there shall be no taxation. This has never been admitted in the case of individuals with private property, and there is no reason why it should be in the case of corporations.

✓ But the real difficulty connected with taxation on the basis of net earnings is a practical one. It is utterly impossible to determine in a permanent and satisfactory manner and for all the varieties of corporations, what is and what is not to be included under net earnings. It is easy enough to specify in general terms what is to be understood by maintenance, operating expenses and fixed charges, but when we come to the concrete items there is no end of dispute as to what should or what should not be included under operating expenses. Take, for instance, a concrete case, which will serve as a sample of endless variations on the same and similar themes.

On the Grand Trunk main line, just west of Port Hope, there was a long dip in the track making two heavy grades. The extra engine power, the extra consumption of coal, the extra labour employed, owing to the impediments of these heavy grades, would all be admitted as perfectly legitimate portions of the cost of operating the line, and, as a matter of course, would be deducted from gross earnings, in arriving at net earnings as a basis for taxation. But to avoid that constant source of outlay the management of the Grand Trunk came to the conclusion that it would be more profitable to capitalize the extra expenditure and alter the line of the railway at that point, as they have recently done. Assuming that the outlay saved by the new location of the track will meet the interest on the bonds, representing the cost of the new line, should or should not the outlay be still charged to operating expenses? If not, then the G. T. R. tax on the basis of net income would be increased, while its revenue remained the same; but, if so, then the interest on bonds may be deducted from gross earnings in order to arrive at net earnings, which few financiers will admit. The same problem occurs in endless variety, in the replacement of permanent structures, the substitution of rolling stock, the introduction of facilities for handling freight and other miscellaneous economies. There is an endless series of new questions to be faced requiring new, or at least readjusted interpretations of what is to be included under betterments, maintenance and operating expenses. Even if all these changing conditions could be kept pace with there is difficulty in insuring perfectly accurate returns, where the basis of report may require to be changed. Again, where the larger railroad systems are made up of combinations of minor roads, standing related to the central company in all manner of near and remote relationships, it is difficult enough to keep track of the gross receipts, but it becomes quite impossible to determine what the net receipts will be, where the gross receipts are divided between various interests on so many different contracts.

✓ In the case of the British system, which is supposed to get at net earnings, the attempt to do so has been virtually abandoned, and a perfectly arbitrary deduction is made from gross earnings, which, ignoring all questions as to what ought or ought not to be true net earnings, simply gets a fixed and fairly uniform basis of revenue for taxation, and this is what all net earnings systems really arrive at in the end. The practical alternative is to simply take the gross earnings, which can always be arrived at without arbitrary or fictitious processes, and adjust matters by regulating a rate of taxation to suit the circumstances of the railroads or the country.

In taking gross earnings as a basis, the chief question is one of equity as between the different railroads. Are the commonly accepted allowances

for maintenance, equipment and operating expenses a fairly uniform percentage as between the different railroads? It is found from a wide range of experience that the normal percentage of operating expenses to gross income varies from sixty-five to seventy per cent. Taking the railroads of the United States according to the grouping adopted by the Interstate Commerce Commission, we have the following percentages for the different groups for 1904:—

PERCENTAGE OF OPERATING EXPENSES TO GROSS EARNINGS.

Group.	Percentage.	Group.	Percentage.
I.	73	VI.	62
II.	66	VII.	57
III.	71	VIII.	64
IV.	63	IX.	78
V.	69	X.	56

For the whole of the United States the percentage is 66 and for the whole of Canada it is 70. Section III, comprising Michigan, Indiana and Ohio, is that which more nearly corresponds to Ontario and its percentage as we see is 71. For all roads falling within or nearly within these limits, it is a matter of comparatively little importance, from the point of view of equality in taxation, whether the taxes are levied upon net or gross earnings. It is popularly assumed that the roads having the larger gross receipts per mile will have the larger margin of net earnings, and that, therefore, they should be taxed at a higher rate than the roads having a smaller gross income per mile. But, as has been pointed out by Mr. Roswell C. McCrea, in his special report on the taxation of transportation companies, prepared for the United States Industrial Commission (Vol. IX, p. 1,024), this idea is not borne out by the facts. A study of the statistics furnished by the Interstate Commerce Commission amply confirms this, and an examination of the railroad statistics furnished to the Canadian Department of Railroads leads to the same conclusion.

We have not returns for the portions of the Canadian railroads operating in Ontario alone; but, taking from the general returns for Canada the statistics of those roads operating in Ontario, we find that roads whose gross earnings vary from \$989 to \$8,000 per mile report practically the same percentage of operating expenses in relation to gross earnings, namely, from 63 to 67 per cent., while the two roads at the extremes of the list, the one obtaining \$549 and the other \$17,553 per mile, report the abnormal percentages of 95 and 98, respectively, as the proportion of operating expenses to gross receipts. It is quite obvious from the returns at present available, that there could be no reasonable graduation of the taxation of railroads in Ontario on the basis of their earnings per mile.

Taking the returns of the railroads as furnished to the Department of Railways at Ottawa, and selecting from the tables the mileage, gross receipts, operating expenses and net receipts pertaining to the railways which operate in Ontario, we have the returns given in Table A. From these we are able to deduce the average gross earnings per mile and the percentage of operating expenses to gross earnings, as given in the first two columns of Table B.

As the normal percentage of operating expenses to gross earnings accepted by railroad men and tax commissioners alike, lies between 65 and 70 per cent., the average might be taken at 66½ per cent., which harmonizes fairly well, alike with the actual returns of the regular roads operating in Ontario, and with the average for the whole Dominion. On this basis a tax of three per cent. on gross receipts would be equivalent to a tax of nine per cent. on net receipts, and, calculating at three per cent. the tax which would be levied upon Ontario roads, we get the average tax per mile as given in the third column of Table B.

TABLE A.

Railways.	Mileage.	Gross Earnings.	Operating Expenses.	Net Earnings.
		\$	\$	\$
Algoma Central & Hudson Bay.....	91	430,261	248,985	181,275
Bay of Quinte Railway.....	72	224,248	124,866	99,381
Brockville, Westport & Sault Ste. Marie.	45	44,502	29,126	15,376
Canada Atlantic System	458	1,908,025	1,216,935	691,090
Canada Southern.....	382	5,705,596	5,593,725	111,871
Canadian Northern System.....	1,236	2,449,579	1,489,293	860,285
Canadian Pacific System.....	7,439	43,299,486	27,458,190	15,841,295
Central Ontario.....	134	190,784	128,379	62,405
Grand Trunk System.....	3,139	25,109,562	16,847,699	8,261,863
Kingston & Pembroke.....	112	182,832	156,131	26,700
Lake Erie & Detroit River.....	222	815,875	599,305	216,569
Ottawa & New York.....	56	101,239	93,398	7,841
Tillsonburg, Lake Erie & Pacific	35	19,239	18,396	842
Toronto, Hamilton & Buffalo	87	543,206	350,601	192,605
Total for Canada.....	18,987	96,064,526	67,481,523	28,583,003

TABLE B.

Railways.	Gross earnings per mile.	Percentage of operating expenses.	Tax per mile 3 per cent.
	\$		\$
Algoma Central & Hudson Bay.....	4,728	49	141
Bay of Quinte.....	3,114	60	93
Brockville, Westport & Sault Ste. Marie.....	989	65	29
Canada Atlantic System	4,602	63	138
Canada Southern.....	17,552	98	528
Canadian Northern System.....	1,981	64	59
Canadian Pacific System.....	5,956	63	178
Central Ontario.....	1,423	67	42
Grand Trunk System.....	7,999	67	240
Kingston & Pembroke.....	1,632	85	49
Lake Erie & Detroit River.....	3,675	73	110
Ottawa & New York.....	1,807	92	54
Tillsonburg, Lake Erie & Pacific.....	549	95	16
Toronto, Hamilton & Buffalo.....	6,243	64	187
Total for Canada.....	5,059	70	151

Now, when we consider the practical inequalities of taxation which are inevitable under every known system, it is quite evident that for nine out of the fourteen roads here represented no substantial inequality would result, whether they were taxed on their gross or net receipts. But in the

case of five of the roads there appears, at first sight, to be a very substantial difference. In most cases, however, even with the information at hand they will be found to present no real difficulties.

As one of the chiefs of a large railroad centering in Chicago put it: "If the operating expenses of a railroad fall below sixty, or rise much above seventy per cent. of the gross receipts, the finances of the road will bear looking into. Either too little or too much is being charged to maintenance and operating expenses, or there is something unusual connected with the business of the line or its operation." This being a statement with which railroad men generally agree, we may approach the returns of the five roads in question with this idea in mind.

The proportion of operating expenses to gross revenue in the case of the Algoma Central is found to be unusually low, namely, 49 per cent. But this road can hardly be said to be in a normal condition as yet, and, according to its report, a large part of its gross income is attributed to other sources than passenger, freight and mail service. Its statement would, therefore, be required to be carefully looked into before we could accept its returns as indicating the normal condition of such a line. On the other hand, we have a remarkable statement from the Canada Southern. This line, notwithstanding reported gross earnings of \$5,705,596, amounting to \$17,553 per mile, yet reports its operating expenses as \$5,593,724, or 98 per cent. of its gross revenue. Now, considering the nature of the territory traversed by the Canada Southern, its excellent connections, its large income, and what might be regarded as profitable trade, most of its traffic being through trade, the same trade, indeed, on which it derives its income in the adjoining states and on which it pays high taxes there, it would appear to be very doubtful that these returns represent the true relationship between its gross earnings and operating expenses on the Canadian section of the road. Quite a different position is presented by this system on the same traffic in the adjoining states. The proportion of operating expenses to gross income over the whole system, including the Canadian section, is given in the report of the Interstate Commerce Commission as 79 per cent. This itself is a fairly high ratio, though not so great as that of the Grand Trunk Western, whose percentage is 82. It will be found, however, by reference to the Michigan section of this report, page 51, that the Michigan Central, of which the Canada Southern is a section, and Grand Trunk Western are two of the lines which are credited by Professor Adams with a great deal of surplus or nonphysical value, and yet the State Board of Assessors, in assessing these roads, augmented the scientific appraisal by large amounts. Again, we find from a comparison of the reports of the Michigan Central as given to the American and Canadian Governments respectively, that the Canadian portion of the road does a much larger business than the American section. The gross earnings per mile of the Canadian section amount to \$17,553, while the gross earnings of the American system amount to \$12,092 per mile, and the whole system, including Canadian and American, earns \$12,745 per mile. In Michigan, under the old law, the Michigan Central paid five per cent. on its gross earnings, the tax for that State amounting to \$284,615. But, under the new Michigan system, the tax levied amounts to \$382,472. Now on the road's own showing the Canadian section has much the largest earning power per mile, and if, on that section, its gross earnings were taxed three per cent., it would be not only far below the present rate charged in Michigan, but only three-fifths of the former rate charged in Michigan, and to which the railroads did not object.

Of course, in taxing such a road upon its gross earnings, we escape the necessity of entering into any special consideration of the basis upon which the road may divide its gross earnings between maintenance, operating expenses, betterment, interest or dividends. But when the percentage of operating expenses to gross earnings is given at 98, on very much the best earning section of railroad in Canada, it is just as well to bring out some of the relative facts, so far as they can be got at.

The next Ontario railway whose returns call for remark, is the Kingston & Pembroke, whose proportion of operating expenses to gross earnings is returned at 85 per cent. Considering the location of this line, the economic character of the country through which it passes, and the past financial history of the road, these returns will excite no great surprise. It may naturally be expected, however, that under the new management, which is much more closely connected with the C. P. R., it may be able to make a better showing. There is no apparent reason why, with gross earnings per mile larger than those of the Central Ontario, it should not be able to keep the percentage of its operating expenses at an equally low rate.

Much the same observation may be applied to the Ottawa & New York, which, with still higher gross earnings per mile, reports its percentage of operating expenses at 92. This road, with better connections in future, may be expected to make an improved showing. This much at least may be said with reference to these lines, that the proposed gross earnings tax would not be likely to materially increase their taxes, because their municipal taxes would undoubtedly make up the greater part of their assessment, and the present Provincial tax of \$15 per mile would probably cover the remainder. Hence, under the proposed system, they would experience little change until their prosperity increased.

The Tillsonburg, Lake Erie & Pacific is in a very different position, being one of the newer small roads which has not yet attained what may be regarded as its normal earning power. However, under the present system, its taxes must considerably exceed the amount which would fall upon it by the proposed change.

We find, then, that the Canada Southern is the only road which, taking its own returns, when taxed upon the general basis of gross earnings, applied to all other roads operating in Ontario, would pay a tax out of proportion to its professed net income. But we have seen, first, that its returns are most abnormal, and, second, that in taxing it on this basis we should be treating it in principle much as the adjoining States do, and, as regards the rate, taxing it very much more lightly. If, in competition with other roads, it cares to carry freight at such low rates as to leave but a small margin of profit, that is no concern of the Ontario Government, and is nowhere regarded as a valid excuse for escaping taxation. If its low income were due to the meagre character of its traffic, or the physical difficulties of the region through which it has to run, entailing an abnormal outlay for maintenance, there might be some ground for special consideration. But it runs through one of the most favourable sections in Ontario, and has more than double the traffic per mile of any other road in Canada. Hence the solution of its earnings problem lies with its own management.

The calculations given in the accompanying tables would, of course, be somewhat modified in the case of those roads operating beyond Ontario, when returns for the sections in Ontario alone were obtained. But the returns furnished to the Dominion Government are doubtless sufficiently accurate to indicate broadly the results of the application of the earnings

system as a basis of taxation. It is safe to say that for those roads extending beyond Ontario the conditions on the Ontario sections would not be more onerous than the average for the whole system.

Finding, then, that the gross earnings tax would cause no substantial inequality in the case of the roads operating in Ontario, and that, as regards equality, there is little to choose between taxing on the gross and on the net earnings basis, the choice between these might very well be determined on the ground of facility and certainty in ascertaining what is gross and what is net revenue. But there is very little difficulty in determining what is gross revenue, while there is endless difficulty and dispute in determining what is net revenue, especially where it is to the interests of the companies to minimize net revenue in order to escape taxation. Hence, there would seem to be no hesitation in selecting gross revenue as the simplest and most direct, and, considering all the roads, the most equitable basis for taxation.

Another conclusion naturally follows from the data at hand, and that is that no graduation in the rate of taxation based on the amount of gross earnings per mile of the different roads is at all necessary to secure equality of taxation. There is also a very special objection to the system of graded taxation on the basis of earnings per mile. In the case of railroads having a large mileage, a very few dollars per mile of increase or decrease may make very great differences in the taxation of the roads and produce great inequality of taxation as between railroads otherwise on the same plane. Take, for example, the position of the Canadian Northern as presented in Tables A and B, with a mileage of 1,236 and gross earnings per mile of \$1,981. If we had a graded gross earnings tax applicable to the whole of that line, with a rate of two per cent. where gross earnings were below \$2,000 per mile and three per cent. where they were \$2,000 or over, it would be found that under the present conditions the Canadian Northern would pay aggregate taxes amounting to \$48,970. But if its gross earnings should be increased by only \$19 per mile, its tax bill would suddenly rise from \$48,970 to \$74,160, which shows how completely such a system may frustrate the idea of adjusting the burden of taxation to the capacity of the roads to pay.

The essential fairness of taking earnings as a basis for the taxation of corporations is based on the general principle that the taxes vary with the capacity of the company to pay them, whereas taxation on the basis of general property results in all manner of inequality. The amount of tangible property required by the various corporations has, in the first place, no necessary relation to their relative earning power, and in the second place, bears no accurate relation to the earning power of the same company at different periods. The capital stock tax has something of the same defect in addition to those already mentioned, yet it has a certain amount of flexibility. Only the tax on earnings follows automatically the capacity of the corporation to pay, and while even it has its inequalities, yet it is very much more equitable than any other practical system.

It is true that this very quality of the gross earnings tax, that it is flexible and follows the earning capacity of the corporations, has been made a point of objection to it, especially in Michigan and other States adopting the general property tax. There it was urged that the State and the municipalities having certain expenditures to meet, a constant revenue was necessary. But if, owing to hard times, the portion of the revenue hitherto contributed by corporations should be diminished, that portion contributed by private property must be increased. This is undoubtedly an excellent stump argument, and there is much force in it when stated

thus baldly. Several additional features, however, have to be considered. The difference between a corporation and a private individual comes in here again. In the first place, under an ad valorem system of taxation as commonly administered, neither private nor corporate property increases in assessed value in proportion to the increase in the prosperity of the country, and likewise it does not diminish in the same proportion, during a decline of prosperity. But recently there has been a tendency, under state boards of assessment, to increase the assessment of corporations to the fully capitalized extent of their earning capacity during prosperous times, which increases their assessment as a rule much beyond that of private individuals, even where their assessment is also increased. But there is no corresponding tendency to revise and reduce corporate assessments when periods of depression succeed. Hence obvious injustice results.

It is held by many that if a railroad company is heavily taxed it can and will retaliate by raising rates. The conclusion from this is that it is poor policy to attempt to overtax railroads, as the tax is immediately shifted to the public, and that railroads, being corporations, are always able to take care of themselves. Now as a matter of fact, neither of these propositions is true. In the first place, the taxes levied upon a railroad constitute only one item of expenditure and cannot determine its whole system, especially where an increase in taxes is confined to one or two States. It is a matter of abundant record that low rates and high taxes are coincident, as also high rates and low taxes. Railroad men and tax commissioners alike scout the possibility of railroads adjusting their rates in accordance with taxation. There are many other factors much more imperative than taxes which go to the fixing of rates. Again, that railroad corporations are not always able to protect themselves by economic processes, is a matter of equally abundant record. Railroads are commonly regarded by the public and their representatives in legislatures as fair subjects for taxation, restriction and imposition, and these movements often exhibit so little evidence of knowledge or discrimination that the most upright of railroad magnates might readily despair of the possibility of dealing with such forces on any basis of frankness and sound business principles. Without any desire to exonerate the railroads from responsibility for the situations in which they so often find themselves, yet it is undoubtedly true that they are frequently forced to seek protection by employing, not the ordinary commercial methods, such as the adjustment of rates and the regulation of service, but the more natural and obvious methods of political intrigue, legal quibbling and squirming, and a general diffusion of buncombe to tickle the ears of the groundlings and act as an antidote to stump oratory denouncing corporations. But, even with all this, they frequently get the worst of it, and excessive taxation, among other injustices, has its natural effect, not upon rates, but upon their general financial position. Excessive taxation cuts down profits; the permanent diminution of profits lowers the value of stocks and bonds. Investors discover that their income and their capital are permanently diminished, and, possibly, to that extent a financial crisis promoted, ending in reconstruction and the consequent consigning of much capital to oblivion. But there are many conditions which contribute to these same results, and it is impossible to tell just how much is due in any case to excessive taxation. It is safe to say that, while the capital value of many roads has been reduced by taxation, none of them have been seriously crippled or their services impaired by taxation alone. It is very necessary to realize these facts, because so long as it is held that the inevitable and only effect of excessive taxation is to increase rates, and since increase of taxation is

not usually accompanied by an increase in rates, the natural conclusion is that the increased taxation has been just and proper, when as a matter of fact it may be strikingly unjust. Undoubtedly the chief evil of excessive taxation is that it promotes a sense of injustice as suffered by the railroads. Being unable to offset the imposition by an adjustment of rates and service, they feel justified in getting back at the public in more obscure and often much more serious forms. All of which is much more seriously to the detriment of the community than the mere raising of rates.

As we have seen, the flexibility of the gross earnings system enables it to follow the capacity of the corporations to pay taxes, and justice requires, more completely in the case of corporations which have only a legal and economic existence, than in the case of private individuals, who are seldom taxed to the full measure of their capacity, that taxation should follow the relative earning power of these enterprises. If, now, a system can be arranged, whereby the municipal taxes contributed by railroads or other corporations should remain fairly uniform and the variation takes place only in the taxes contributed to the Provincial revenue, then the problem comes to be one of Provincial finance only, and is analogous to the problem of Dominion finance where the same variation takes place owing to practically the same conditions, because the revenue depends upon customs duties, and expands and contracts with good and bad times. But any proper system of Provincial finance must take such variations into account by equalizing as far as possible surpluses and deficits. This is made easier in a Province like Ontario, where the natural resources of the Province may be regarded as a sort of reserve fund which can be drawn upon to equalize budgets.

Apart from its merits as a simple, practicable and flexible form of taxation, the tax on gross receipts has this further great advantage over other forms of taxation, that all the facts and all the processes connected with its operation are matters of public record. Thus, the railroads, on the one hand, and the government and the public, on the other, may know exactly the basis of valuation, the rate of the tax, and the relative contributions of the taxpayers in proportion to their business. Under other systems of taxation, where the basis of valuation depends more or less absolutely upon the opinion of one or two assessors, who cannot be quite certain of their own estimates, either individually or collectively, it is obvious that the most unusual power, without any adequate check, is placed in the hands of one or two men. In previous days, where the assessor had many small properties to estimate, and where the value of each man's property was fairly well known to his neighbors and to the public, this system presented few difficulties and no serious evils. But under modern conditions one need hardly suggest that where railroads and other corporations, the value of whose property is hardly known to themselves, are required to contribute millions of dollars in taxes without any knowledge as to how their own or their rivals' assessments are made up, and where the public are necessarily in even more complete ignorance, the opportunity and temptation is very great to bring influence to bear upon the Government for the appointment of favourable assessors, or upon the assessors themselves for a favourable valuation. It is not in the interest of pure politics or sound finance and it is certainly not fair either to the railroads, the assessment boards, or the general public, to maintain a system of taxation which places such enormous interests as the valuation of many millions of corporate property at the mercy of the private opinion of one or two men. The unsatisfactory character of such a system is fully recognized alike in the United States and in Britain. Yet in both countries historic

circumstances, constitutional limitations, or local and personal prejudices have tended in more or less degree to continue a system, the objections to which have become serious only with the growth of corporate wealth.

One of the most important advantages of the gross earnings tax is that it does away with the difficulty about the taxation of franchises. Probably no aspect of modern economic wealth has given rise to such elaborate and confused discussion and even outlandish theorising as the so-called "franchise" values. Without attempting to follow the lines of popular discussion on the subject, it may be sufficient here to indicate briefly that there are two distinct senses in which the term "franchise" is used to indicate a property or economic value. It is the confusion of these two economic phases, with the occasional introduction of purely legal aspects of franchise which has contributed so much to the darkening of counsel on the subject.

In the first place, the term "franchise" is applied to a right or privilege to use public property for the purpose of obtaining private gain. So long as this use of public property is open to every person on the same terms, though certain persons may, in virtue of their special business or calling, use it more than others, it is not necessarily of any special value to them as compared with their actual or possible competitors. A merchant having large quantities of goods to deliver to his customers makes much more use of the streets and is much more interested in their condition than an office man who simply uses them to go to and from his office. Yet both men, if assessed for the same amount, will contribute alike towards the maintenance of the streets. The office man does not ask that the merchant should contribute a special sum, because of the special franchise which he enjoys on the streets.

When, however, a telegraph, or telephone company, or a street railway company obtains from a city council a special right to make use of the streets, for the erection of their poles, the stringing of their wires, the laying of their tracks and the running of their cars, they obtain a special privilege which cannot be granted to all comers, as was the case with the merchants. This special grant or limited privilege, or franchise to use the streets is worth money to the individuals or companies obtaining it; but just in proportion as it enables these companies to obtain revenue, present and prospective. The privilege of using the streets is exactly the same in kind, whether it is granted in a town or in a large city. In a town, however, it may be worth little or nothing; in a city it may be worth many thousands a year. Such a privilege or franchise, therefore, is something which a city can sell or lease in precisely the same way as it may sell or lease vacant lots or made land along a waterfront. After selling or letting such a property the city may discover that a much better bargain might or ought to have been made. But a bargain is a bargain, and a city has no more right than a private individual, so far as the bargain element is concerned, to attempt, under the name of a franchise tax, to take from the fortunate parties the economic benefits of their bargain.

Such property, however, should be subject to the ordinary system of taxation, applicable to all other properties of the same nature. On the basis of income the good bargain which the holders of a city franchise may have obtained will naturally result in the contribution of a large amount of taxes. The taxation, however, has nothing to do with the franchise, which was a form of property belonging to the city, and which by sale or lease it ought to have utilized to the best possible advantage. The central fact is that, in the privilege to utilize the streets in a more or less monopolistic manner, we have a species of franchise which is simply a form of property and may be dealt with after the same manner as any other

property. It may be bought or sold or leased at a loss or at a profit; it may be transferred from one to another under the original terms of purchase or lease, and it can be taxed like any other property. But if sold at a loss, there are other methods of recovery than by a special form of taxation, which is a poor disguise for confiscation.

But there is a totally different use of the term franchise. An individual or a corporation establishes a business, say a smelting works or a railroad. So much capital is invested in it upon which a certain return is expected. If the enterprise succeeds sufficiently to furnish a fair average return on the outlay, the property will be valued in the market at very much what it cost to produce it. If the property is being taxed on the basis of ordinary real estate and personal property, the taxes may be regarded as fair, alike to the public and to the owners. In other words, the tax on the general property is a fair tax on the income from it, since it is the income which pays the tax. The business, however, may not be prosperous, and if the property cannot be more profitably employed by others, or if it is not worth more for any other purpose, then to tax it on the basis already taken is to tax it for more than it is worth, that is, for more than the income will justify. It must, therefore, fall in value and be assessed at a lower rate. But if, on the other hand, the business continues to increase in prosperity, beyond any corresponding investment of capital, then the income will considerably outstrip the ordinary rate of profit and the business will be worth much more than the cost of reproducing the plant. If, then, the business is being taxed on the basis of ordinary real and personal property, the assessment of the property will be considerably below its actual value, that is, the full value which the income from it will justify or determine. Obviously there is a difference between the value of the plant and the value of the business, and that is both an income value and a market value, though not a physical reproduction value. To find a name for this additional value, over and above the cost of reproducing the plant, the term "intangible value" or "franchise" is commonly employed. But this is a perfectly different form of franchise value from the privilege of using public property. Nevertheless they are both economic values measured by earning power. They can both be bought and sold. But there is this difference, that a public franchise may be sold independently or *per se*, while the franchise element in a successful business can be sold only along with the physical element, or, in other words, as part and parcel of the business as a whole. But because a public franchise may be held as a property and disposed of as a property by the State, or any subordinate civic body, it is assumed that the State or such civic body may have some proprietary right also in the second form of franchise value. This confusion partly arises, no doubt, from the fact that the value in each case takes the form of an immaterial right, which can be bought and sold and to which the term franchise is commonly applied. But to claim for the State the right to take by taxation or otherwise the franchise element of a business practically amounts to claiming for the State the right to take the intangible value which belongs to a bank note or any other form of bank credit, or the intangible value of a professional man's reputation as embodied in his practice. It may be true that the intangible value of a business, of a bank, or of a practice has been built up by special skill, knowledge and industry, which ordinary competitors cannot equal, and that therefore each has a certain monopoly value, but this is simply to say that men either singly or in combination are very far from being on a basis of equality, economically, intellectually, or in any other way. There are various forms and degrees of this monopoly element, but it will not do to

arbitrarily single out any particular cases and treat them as though they were generically different from others.

✓ Again, it is perfectly true that none of these intangible values could have been developed apart from the general public. But to claim that on this account the general public is entitled to take these values to itself by some process of taxation, must apply to all such instances or to none. But it is perfectly demonstrable that practically all values, tangible or intangible, in the modern economic world, depend upon one section or another of the public. But if the public which contributes to these values may take them, through taxation, then a good part of the taxes on the farms of the west and on the railways which carry their grain and cattle to the seaboard, should go, not to Canadian Provinces or the United States, but to Britain and other countries of Europe, whose people, by furnishing a market which pays for these products and their transport, give value to the farms and the railroads. To such conclusions do these crude claims logically conduct us.

There are other uses of the term "franchise", which sometimes add to the confusion already indicated. Thus there is a more strictly legal conception of "franchise," as a right granted by a legislature, under general or specific terms, to a number of persons to be a corporation and to exercise certain corporate rights. But where this privilege is granted, as it commonly is, to as many corporations as care to comply with the specific conditions and pay the prescribed fees, it cannot be said to have any special economic value, beyond the fees paid for it, or furnish any special basis for taxation beyond other properties. To give this form of franchise any particular value, it must be identified with one or other or both of the forms of economic franchise already dealt with.

Having distinguished the two quite different intangible economic properties, which are indiscriminately named "franchise", and having endeavoured to show that it is impossible to maintain that they should be confiscated or absorbed by any process of taxation, it still remains perfectly certain, as already indicated, that being economic properties they are, equally with all other economic properties, subject to taxation. But the franchise value which attaches to an ordinary business and which, as we have seen, is marked by a value over and above that of the physical property, is entirely due to the earning capacity of the business as a whole, and the most normal, just and equitable method of taxing it is on the basis of earnings. Now a franchise value in the first sense, as a right to use public property, may bear a franchise value in the second sense, as an earning capacity over and above the original capital expenditure, and this, too, would be reached as in the other case by an earnings tax.

While this analysis of franchise values and of the proper method of bringing them into equitable relationship with the public treasury, applies more or less to every form of business, private or corporate, yet it applies very particularly to corporate enterprises, and especially to all those financial, transportation and transmission corporations whose business, though in each case a corporate entity, extends over indefinite areas and may be carried on within many different municipalities, often within several provinces, and even different countries.

The question, therefore, arises, how are we to break up these corporations for local taxation? How are we to tax a railroad in different municipalities, provinces and countries? Plainly we cannot do so satisfactorily on the basis of its physical property alone, and even though earning power may be at once the most scientific and practicable basis, we have yet to ask how we are to determine the earning power which belongs to any particular locality. American, British and Canadian experience abundantly

proves that it is not feasible for the separate municipalities to attempt to assess and tax all the varied aspects of those fragments of the corporations which are found within their borders. The Province or the State is the smallest unit which can attempt the task, and even there the most experienced judgment favours a determination of value, whether of property or income, by the federal authority, and its apportionment for purposes of taxation to the several Provinces or States. However, in default of such an arrangement in the meantime, it obviously falls to the lot of the Provinces to undertake the work of dealing with the general taxation of corporations.

It may be asked, will this involve a sacrifice on the part of the municipalities of the revenues which they have hitherto derived from railroads and other corporations? The answer to that will very largely depend upon how much of the general property of the railroads and other corporations the municipalities have hitherto attempted to tax. Fortunately, in Ontario the municipalities have for the most part been content to tax the railroads in particular upon their real estate, as confined to land and buildings. So far as this has been the case there is no necessity for any change. Each municipality may be said to be fairly entitled to tax the land which lies within it, as also the buildings which are erected within its borders. In cities and towns a great deal of the civic expenditure is connected with the maintenance of the streets, the furnishing of fire protection, drainage, light and water supply, towards all of which the areas served and the buildings erected should contribute on the usual principle of assessment, regard being had to the use which is made of the property, and the expenditure which it entails upon the municipality; though service rendered be only a very limited basis for the levying of taxes. So far, then, there is practically no difference between private and corporate property, and it is quite possible for the local assessors to assess fairly, corporate lands and buildings on the basis of the valuation of adjoining lands and buildings.

But what has very naturally given rise to considerable agitation throughout the Province of Ontario, is the fact that the railways and allied corporations, when taxed upon this basis only, were plainly inadequately taxed in proportion to their wealth and ability to pay. Here, however, is where the newer and more difficult features of the problem come in. As we have seen, it is not practicable to have the municipalities through their local assessors attempt to value the corporate elements of a railroad, since these pertain to the system as a whole and can only be reached by a Provincial assessment at narrowest. Moreover, it is neither desirable nor equitable that, when a railroad happens to pass through or centre in a certain municipality, that municipality should enjoy the exceptional advantage of taxing the railroad, not only upon its real estate but upon its personal property and traffic or business. The traffic or business belongs to the country in general and not merely to any particular section of it, through which a line of railroad happens to run.

That the railroads should be adequately taxed, everyone, including themselves, will admit; though there is apt to be an exaggerated idea throughout the country of a railroad's capacity to pay taxes. But, as we have seen, it is neither possible nor necessary to tax railroads on the same basis as other property. However, by a Provincial taxation of railroads, in addition to their municipal taxation on real estate only, the desire of the public for their adequate taxation may be satisfied.

The benefits of railroad taxes may in this way be diffused throughout the whole Province, without respect to the accidental location of the lines. The municipalities have no occasion to look with jealous eye on the amount of corporate taxes which may pass into the Provincial Treasury, for, on

the one hand, much of the Provincial revenue is distributed, in one form or another, to the municipalities, and, on the other, as was pointed out at the beginning of this Report, unless the Provincial Treasury finds some direct means of sharing in the general increase of the country's wealth, it will either be forced to curtail the assistance which it now furnishes to educational, charitable and other local needs, or it will be compelled to resort to a direct taxation of the general property of all the ratepayers of the Province, with all the complexity and inequality which that would entail. Hence, in every way, it is in the interest of the municipalities, as well as of the efficiency of corporate taxation, that the Province should undertake the general taxation of corporations, leaving to the municipalities the right to tax their lands and buildings only.

There still remains the question, how are the Provincial and local authorities to distinguish between their respective proportions of railroad taxes? That matter can be very easily adjusted as follows: On the basis of gross earnings the Province would be able to determine the whole of the taxes which the railroads and similar corporations should pay within its borders. The portion to be assessed upon real estate within each municipality would be determined locally, as at present. Then, by deducting from the total Provincial taxes of each corporation, the portion to be paid in the various municipalities, the difference would represent the share of the Provincial Treasury. A reference to Tables A and B will show that such a system of taxation would be much more equitable than the present system, which levies a uniform rate of \$30 per mile on all roads in excess of 150 miles in length, in the settled portions of the Province, and \$15 per mile on shorter lines. If such a tax is a fair one for some of the poorer lines, then it is very inadequate for the wealthier ones, and certainly far below the most reasonable rates paid by the same companies on other parts of their lines in the adjoining States, east and west. A tax on gross earnings, however, would very largely correct these inequalities and would, to a far greater extent than any other system possible of application to the railroads of Ontario, result in an equitable adjustment of burdens as between the different railroads operating in the Province.

As to the rate at which the gross earnings should be taxed, that is, of course, a matter which can be adjusted from time to time to suit the increasing prosperity of the country and of the corporations. As may be gathered from the sections of this Report, dealing with the different States, and from the opinions of various experts on the subject both within and without railroad circles, three per cent. is regarded as a very fair percentage to be levied upon gross receipts. The American railroads in general, many of them with smaller percentages of surplus revenues per mile than the leading lines of Ontario, regard three per cent. as a very reasonable rate. It is true that Michigan was not content with from three and a quarter to five per cent., nor Wisconsin with three to four per cent., for roads equivalent in income to most of those in Ontario, and, by the recently adopted changes in their systems, they have greatly increased railroad taxation. Minnesota also within the past year has raised the general rate on gross receipts to four per cent. Three per cent., then, may be considered a reasonable rate in Ontario. As shown in Table B the effect of that rate, applied uniformly, would probably be to lower the taxes now paid by three of the smaller Ontario lines and but very slightly affect two or three others. On the other hand, it would undoubtedly increase to a considerable extent the total revenue obtained by the Province from the railroads.

Should the Legislature determine to introduce the gross earnings tax for railroads or other similar corporations, it would be necessary to select

a basis for determining the proportion of earnings assignable to this Province in the case of those railroads, etc., operating in several Provinces or States. The best opinion on that subject would favour some such arrangement as the following:

(a) The receipts from all traffic between terminals in Ontario to be assigned entirely to Ontario.

(b) The receipts from traffic between terminals, one of which is within Ontario and the other in some other Province or State, to be assigned to Ontario in the proportion which the mileage of the traffic in Ontario bears to the mileage of the whole traffic.

(c) Receipts from traffic passing through Ontario, between terminals neither of which is in Ontario, to be assigned to Ontario in the proportion of the mileage of the traffic in Ontario to the whole mileage of the traffic. In this case some allowance might be made for terminal charges.

As to the most efficient method for administering a Provincial system of corporate taxation, whatever basis of taxation might be adopted, there is an almost unanimous conviction, alike in the United States and Britain, as also in Canada, that a Provincial Board of Taxation should be established composed of, say, three persons, only part of whose time would be required, however, for their duties, with a permanent secretary and assistants for clerical and statistical details. To such a board should be assigned the following duties and powers:

(a) To prescribe forms of schedules for the purpose of securing the necessary information and statistical returns from the various corporations subject to taxation.

(b) To verify the returns of the corporations, and to have, for this purpose, such right of examination or inspection of the property or books of a company as may be necessary.

(c) To determine, where corporations extend beyond the limits of the Province, the proper proportion of valuation or income assignable to the Province as a basis of taxation.

(d) To supervise and adjust, according to such acts as may be passed, the assessment and taxation of corporations as between municipal and Provincial authorities. This assumes that municipalities shall retain the right to tax the local real estate of corporations.

(e) Quite generally, to supervise the administration of the tax laws of the Province with reference to the taxation of corporations.

Inasmuch as the business of telegraph, express, and sleeping car companies is so intimately associated with railroad corporations, especially in Canada; and, inasmuch as electrical railways are not only furnishing urban service, but are extending throughout the country in competition with the regular steam railroads, and are likely to be indefinitely extended in the future, it would be advisable to treat these corporations, and doubtless several others, upon the same basis as the railroads, and to apply to them a tax on gross receipts, with rates adjusted to their ability to pay.

H. J. PETTYPIECE,
Chairman.

ARCHIBALD BELL,
ADAM SHORTT.

TORONTO, April 1st, 1905.

Typical Systems of Taxation as at present applied to Railroads and other Transportation and Transmission Companies in the United States, Britain and Canada; with criticisms and proposed amendments on the part of Tax Commissions, Representatives of Railroads and Students of Taxation.

MICHIGAN.

Previous to 1900 the railroads operating in the State of Michigan were subject to a specific tax on gross receipts from business done within the State. The practical operation of the system is represented by the following statements :

RAILROADS.

"Railroads and depot companies are required to pay, on or before the first day of July of each year to the State Treasurer, a specific tax upon their property and business within the State as follows:

"On gross income not exceeding \$2,000 per mile of road within the State, $2\frac{1}{2}$ per cent. of such income.

"In excess of \$2,000 and not exceeding \$4,000 per mile of road within the State, $3\frac{1}{4}$ per cent.

"In excess of \$4,000 and not exceeding \$6,000 per mile of road within the State, 4 per cent.

"In excess of \$6,000 and not exceeding \$8,000 per mile of road within the State, $4\frac{1}{2}$ per cent.

"In excess of \$8,000 per mile of road, 5 per cent.

"The income of union stations and depot companies exceeding \$20,000 per mile shall pay upon such excess 10 per cent. of income.

"To the income wholly within the State is added such pro rata portion of the income from interstate business as the length of the road in Michigan bears to the entire length of the road over which interstate business is done, the taxes so paid to be in lieu of all other taxes, except real estate not occupied in the exercise of railroad franchises and otherwise taxed."¹

Analogous to the railroad corporations and intimately connected with them are the Fast Freight Lines and Private Car Companies, freight and passenger.

Previous to the adoption of the ad valorem system they were treated thus: "Every person, copartnership, corporation, association, car-loaning company, or fast-freight line engaged or that may hereafter be engaged in the business of running cars over any of the railroads of this State, or for renting such cars for use upon said railroads, the said cars at the same time not being exclusively the property of any railroad company paying taxes in this State under the provisions of article three of act one hundred and ninety-eight, session laws of eighteen hundred and eighty-three (seventy-three), and the several acts amendatory thereof, or of some railroad company incorporated and doing business under the laws of some other State or Province, shall be liable to pay taxes upon the gross receipts or revenue derived as car mileage or car rentals for the use of such cars while in use for traffic between local points in this State, and from all sums received from passengers as additional charges to the regular fare for the occupancy

¹ Report Board of State Tax Commissioners, Michigan, 1900, p. 48.

of any palace, drawing-room, sleeping, parlor, chair, or other car designed for passenger use between points situate within the limits of this State."

The rate levied was "two and one-half per cent. upon their gross receipts, as computed by the commissioner of railroads, and derived from passengers or from loaning, renting, or hiring these cars to any railroad or other corporation."²

Closely associated with these were the Express, Telephone and Telegraph companies, which were treated thus :

EXPRESS, TELEPHONE AND TELEGRAPH COMPANIES.

"By Act No. 179, of the Public Acts of 1899, the legislature provides that telephone, telegraph and express companies shall be assessed by the Auditor General of the State, and shall pay to the State Treasurer a specific tax upon the property and business of such company, estimated upon the following basis :

"Upon the gross receipts of express companies derived from business within this State, 3 per cent. .

"Upon the gross receipts of telegraph companies derived from business within this State, 3 per cent.

"Such taxes to be in lieu of all other taxes paid upon their property or business."³

All these taxes were levied by the State. The municipalities in Michigan have never enjoyed the right of taxing railroads or other transportation corporations on property employed for transportation purposes. In the case of electric railways, however, which are of recent origin, and which were first established within the bounds of single municipalities, each municipality is allowed to tax that portion of the property within its limits.

For various reasons the people of Michigan came to believe that they were not obtaining from the railroad companies as large a proportionate revenue as some of the adjoining States, or as large a share as was contributed by other property within the State.

The agitation for a change in the method of taxing railroads was evidently due to a fundamental conviction that the physical property of railroads, which lay before the eyes of the common citizen, should pay in proportion to all other visible property, quite irrespective of the use to which it was put or the relation which it bore to the income of the railroads. A costly bridge across a ravine and the approaches thereto obviously represented the outlay of a very great deal of wealth on a single mile of track, while the next mile might cost but a fraction in comparison. Yet the principle that everyone should pay in proportion to his property plainly required that the one mile should be assessed in proportion to the capital expended on it, though it contributed no more to the railroad earnings than any other mile, and would indeed be worth as much less to the railroad company as was represented by the extra cost of maintenance.

As one of the State tax commissioners put it, "That these companies represent immense wealth of taxable property within this State goes without saying. Our people have clamored for this uniformity. Recent elections have overwhelmingly been won with that as almost the sole issue.

"The consensus of public opinion and sentiment is to the effect that uniformity does not exist; that inequality of the most flagrant type abounds; and that the people demand that a universal system shall be employed assess-

² Act of 1897. ³ Report 1900, p. 48-49.

ing all properties, taxable within the State by the ad valorem plan and upon actual value. Assuming this will be done by the legislature, equal taxation of these properties, with all others, can be worked out, because of the universal application of law."⁴

This movement for a change of system was led by the late Governor Pingree, who found increased taxation of railroads to be a popular policy. One of his strongest arguments against the taxing of gross earnings was the following, taken from his message to the Legislature: "The method is unjust. The tax upon earnings or income operates in favor of the railroad companies. When the times are hard and the earnings smaller, the tax is less. In the meantime the State's burdens are no less, and may, perhaps, have increased, and the relief accorded to the railroad companies during these hard times and depression, must be borne by the property owners generally. Thus, during times of depression, when the people are less able to pay, their burdens are increased, and just to the extent that the railroad company's burdens are diminished.

"What would be the result if the State attempted to collect the entire burden of tax upon earnings or income? How much would the farmer or merchant have contributed from 1893 to 1897? The result would have been that the State would have received but little, if any income, and would have been bankrupt and unable to meet its obligations."

The Michigan railroad commissioner, in 1897, puts the matter thus: "It is apparent that the present system of taxing railroads is unjust.

"1st. Because it is inequitable as compared with the tax upon other property, and because it is unjust to tax one kind of property upon its earning capacity and refuse the same privilege to other properties.

"2nd. Because the State, under the present law, is powerless to determine whether the earnings reported by the companies are accurate or not, the whole machinery for determining or reporting the same being practically within the control of the railroad companies.

"3rd. Because a partial control thereof by the State is inadequate to protect it.

"4th. Because the system as applied to roads doing an interstate business is a usurpation of the power of Congress to regulate commerce between the States, and to that extent is void."⁵

Chiefly through the influence of Governor Pingree, the Atkinson Bill, first introduced in 1897, was finally passed in 1899. It was based on the law of Indiana and changed the system of railway taxation back to the old form of an ad valorem, or general property tax. Shortly after its passage the law of 1899 was shown to be unconstitutional in a couple of test cases before the Supreme Court of the State. This only stimulated the determination to have the system changed and in November, 1900, the Constitution was amended to permit of applying the ad valorem system to railroads and other corporations. The sections of the Constitution, specially affecting corporations, and the amendments to them are as follows:

Article XIV.

"Section 10. The State may continue to collect all specific taxes accruing to the treasury under existing laws. The legislature may provide for the collection of specific taxes from (banking, railroad, plankroad, and other) corporations." To this was added, "The legislature may

⁴ Report, 1900, p. 129.

⁵ Report of the U. S. Commission, Vol. IX., p. 1,023.

provide for the assessment of the property of corporations, at its true cash value, by a State Board of Assessors, and for the levying and collection of taxes thereon. All taxes hereafter levied on the property of such classes of corporations as are paying specific taxes under laws in force on November sixth, A.D. nineteen hundred, shall be applied as provided for specific State taxes in section one of this article."

"Section 11. The legislature shall provide a uniform rule of taxation, except on property paying specific taxes, and taxes shall be levied on such property as shall be prescribed by law." To this was added, "The Legislature shall provide a uniform rule of taxation for such property as shall be assessed by a State Board of Assessors, and the rate of taxation on such property shall be at the rate which the State Board of Assessors shall ascertain and determine is the average rate levied upon other property upon which ad valorem taxes are assessed for State, county, township, school and municipal purposes."

In the meantime a State Tax Commission was appointed in 1899, part of whose duty it was, in the language of the Act, "to inquire into and ascertain the valuation of the properties of corporations paying specific taxes under any laws of this State, and to ascertain the actual rate of taxation, as based upon the valuation of said property that is being paid by said corporations, and, to this end, said board shall require reports from, and make investigations as to the properties of such corporations in the same manner and to the same extent as if said corporation were paying taxes under this Act."

"To further report to the Legislature at the beginning of the regular Sessions, specifically the true valuation of the properties of corporations paying specific taxes and the rate of taxation actually paid on said valuation, and the true valuation of all other properties of the State and the rate of taxation the same are paying, to the end that the Legislature shall have the information necessary to re-arrange the rate or system of taxation on said properties, so that all taxable properties of this State may be taxed uniformly."

After examining the systems of all the different States, the Commission concluded that, "no one of them seemed to offer a fair or satisfactory solution of the problem before the Commission. It was, therefore, deemed wise that a thorough appraisement be made of the physical, tangible properties of all railroads of the State. The task was not only herculean in magnitude, but most difficult of execution. It required expert ability not possessed by the Commission. That such work, if performed at all, should be so well and thoroughly done as to command the respect of the State and of the railroads as well; otherwise it would be valueless and prove a waste of time and money.

"The matter was placed before the Board of State Auditors and their assent obtained to an allowance of reasonable bills for the work. Professor M. E. Cooley, of the Michigan University, a civil engineer of national repute and wide experience, was employed by the Commission to superintend and plan the appraisal. He was not hampered by limitations or directions, except that all bills must be approved by himself, the Commission and the Board of State Auditors. He was authorized to employ such help as he required. The work was to be done by men who were competent and fair, without any reference to their place of residence or their politics. They must have fitness for their work and he alone was to be judge of such fitness and ability.

"It was soon apparent that the cost of this work would be in excess of first estimates, but it was believed that what the people wanted was some solid basis upon which to found a system of railroad taxation and that a cost of forty or fifty thousand dollars, if need be, would be economy in the end. Upon such vast properties the taxation upon two or three millions of dollars would in a single year, at the average rate of taxation, equal the total cost of appraisal."⁶

Professor Cooley certainly accomplished his portion of the work in a most thorough and systematic manner. As this system of valuation has been deemed in Michigan an essential factor of the ad valorem method of taxation and as it is perhaps the most unique feature in connection with the alteration of the State taxation, some account of what is involved is necessary to this report. The work accomplished is concisely stated in the report of the tax commissioners for 1902.

"The Michigan Railroad Appraisal, conducted by Prof. M. E. Cooley and a corps of some seventy-five engineers, occupied the period from about the first of September, 1900, to the 30th of May, 1901, not all of the force being engaged upon the work, however, during the entire period. The plan that he evolved for the accomplishment of his purpose was first a division of the forces into two parts, namely, field men and office men. The latter were sent to the various railroad offices in small groups and there gathered all data that was available regarding the property of each company.

"They searched the engineering records and gathered a full description and classification of mileage, track, roadbed, rolling stock, buildings and lands, entering a complete record in detail upon special blank forms prepared for the purpose. Early in the work the idea of following the classification of construction expenses as outlined by the Interstate Commerce Commission was conceived, and this classification with but slight alteration was used as a guide in making up these blank forms. The list as used comprised the items in the following table; and as here given, shows the grand total cost of reproduction and present value of all physical railroad property in Michigan.

"The field men or inspectors before referred to were supplied with a concise copy of the information gathered by the office men and sent out singly on actual inspection of the physical property of each railroad. The inspector also carried with him an ordinary engineer's note book upon which to make his own independent notes regarding the description and condition of the property and at the same time check up the list supplied him by the office force. He covered his road either on foot, or by means of a hand car, but was not permitted to make his examination from the cab of a locomotive or the rear of a passenger or freight train. He described minutely the physical property, such as bridges, ties, rails, spikes, rolling stock, road bed, station buildings, etc., but did not place any value in dollars or cents upon the various items in the field. His sole duty was to describe each item and ascertain, if possible, the time it had been in use or what percentage its physical condition represented of a new item of the same kind, the valuation being made at a later period.

"The whole work was necessarily a progressive one and no precedent for its accomplishment existed. So it was found necessary to withdraw some of the office men and field men from their first duties as operations advanced and consolidate them into a calculating or estimating body at the main office in Detroit. These men received the note books of the field inspectors as fast as each road was gone over, together with the office blanks

⁶ Report, 1900, p. 69.

first mentioned, and from the two records commenced the task of estimating the cost and present value of the property examined. To avoid errors or influence in the nature of "the personal equation" of each individual, a set of tables containing average costs of all forms of railroad property down to the minutest detail, was made out. These price tables were the result of averages carefully arrived at and discussed by conference of the ablest men engaged in the work. For illustration, the price of steel rails as given in these tables was \$28.00 per gross ton, being found by averaging the standard weekly quotations for a period of one year. Some fifty of these tables were completed and the calculating force adhered rigidly to them in estimating the cost of property. The present value was then found by multiplying the cost by the percentage of condition established by the field inspector.

"Another feature that now presented itself was the necessity of honest expert criticism of the methods being used in order that no false premises should creep into the process of valuation. With this idea in view a board of review was appointed, consisting of Messrs. Octave Chanute and Maj. G. W. Vaughn of Chicago, Mr. Charles Hansel of New York, and Prof. Charles E. Greene of Ann Arbor, four of the best known engineers in the United States. All of these gentlemen are members of the American Society of Civil Engineers, Mr. Chanute being a past President of the Society. This board, after a careful examination of all that had been done, made many needful suggestions. Special departments were organized at this time in both field and office. These departments shaped themselves naturally along the lines of civil, mechanical, electrical and marine engineering in the field, and each had a counterpart in the office, such as Department of Roadway, Bridges and Buildings; Department of Motive Power, Rolling Stock and Tools; Department of Telegraph, Telephone and Electric Stations, and Department of Docks, Wharves and Car Ferry Terminals.

"Towards the close of December, 1900, the field work and inspection was practically completed and the field men either discharged, or retained for service in the calculating force as exigencies required. Preliminary results were reached in the office and it became necessary to compile them in a systematic manner.

"A portion of the force now employed was organized into a "Checking Department" and began a systematic study of the results passing through the compiling department for the purpose of correcting errors. From the 1st of January to the 1st of March the work was confined almost wholly to the office, the field work having been completed and final results on many of the roads reached. About the 1st of March it was decided to complete the work in Lansing, and to this end all records were shipped to the office of the Tax Commission, and the number of men employed diminished to four.

"For the next two months, or until the end of April, the time was spent in typewriting results and arranging them in an orderly condition for binding and preservation. The typewritten work was done on large sheets, four copies at a time. When completed, the finished work was thus reproduced in quadruple and formed nine complete volumes on fourteen by seventeen inch paper, with from 130 to 200 pages in each volume. The office notes and other data gathered from the railroad companies was bound into twelve large nine by seventeen inch volumes. The inspectors' notes were of course preserved in the engineers' field books, and the remaining data gathered into more or less compact shape between hard board covers.

"In addition to this, twelve volumes of letters and correspondence remained, together with five volumes comprising the appraisal of telegraph and telephone properties. Considerable time was spent in indexing and fil-

ing this small library, and some final proof reading was also attempted. The entire set of results now exists in the office of the Tax Commission, and has formed one of the most important parts of the basis of valuation of railroad property used by the board.”

The cost of this work to the State amounted to \$65,000. The scheme of headings under which the physical property of the railroads was appraised and the total values under each are here given :

SUMMARY.

Michigan Railroad Appraisal.

Mileage.	
Main Line.....	7,082.35
Branches.....	730.92
Spurs and sidings.....	2,904.70
Second track.....	164.83

VALUE OF PHYSICAL PROPERTIES.

Subject.	Cost of reproduction.	Present value.
	\$	\$
1. Engineering, 4% items 2 to 25 inc. and 33.....	5,386,772	5,386,772
2. Right-of-way and station grounds.....	27,745,313	27,745,313
3. Real estate	863,337	863,337
4. Grading.....	21,699,995	21,693,024
5. Tunnels.....	1,148,070	1,093,445
6. Bridges, trestles and culverts.....	3,027,119	6,337,819
7. Ties (cross and switch ties)	11,139,924	6,148,748
8. Rails.....	28,703,012	21,865,994
9. Track fastenings.....	3,845,030	2,987,982
10. Frogs, switches and crossings.....	1,469,781	1,040,120
11. Ballast.....	3,723,558	3,723,558
12. Track laying and surfacing	6,555,638	6,400,972
13. Fencing	2,763,595	1,627,790
14. Crossings, cattle guards and signs.....	607,542	428,474
15. Interlocking and signal apparatus.....	301,883	448,686
16. Telegraph (30) telephones.....	258,985	134,797
17. Station buildings and fixtures.....	4,108,736	3,111,103
18. Shops, roundhouses and turntables.....	2,157,228	1,467,569
19. Shop machinery and tools.....	1,107,910	882,634
20. Water stations.....	725,670	522,135
21. Fuel stations.....	303,289	201,461
22. Grain elevators	1,336,794	1,009,043
23. Warehouses.....	258,646	183,910
24. Docks and wharves	5,531,919	3,831,934
25. Miscellaneous structures.....	1,234,345	856,253
26. Locomotives.....	9,021,517	5,092,053
27. Passenger equipment.....	3,197,473	2,277,271
28. Freight equipment.....	19,734,246	13,690,587
29. Miscellaneous equipment.....	702,940	423,689
31. Ferries and steamships.....	1,725,000	1,095,500
32. Electric plants.....	93,061	89,898
33. Terminals (items included above).....		
34. Legal expenses, 0.5% items 2 to 25 inc. and 33.....	673,349	673,349
35. Interest, 3%, items 1 to 34 inclusive.....	5,290,549	5,290,549
36. { Miscellaneous } { Organization 1.5% do.....	2,645,277	2,645,277
{ expenses } { Contingencies 10%.....	18,428,759	15,127,110
Total cost of construction and equipment.....	202,716,262	166,398,156
37. Stores and supplies	1,474,829	1,474,829

⁷ Report, 1902, pp. 52-55.

When these results were obtained it was found that the State had not yet a true valuation of the railroad property. It had at best but one of several factors which enter into an adequate appraisal. "It is generally understood that under the present system of taxing gross earnings, the taxes paid per mile of road vary to a much greater extent than do the tangible properties of the roads. In other words one road may have a tangible property worth \$15,000 per mile, while another road has a tangible property worth \$25,000 per mile. The road having the tangible property worth \$25,000 per mile may be paying upon gross earnings to-day four dollars of tax per mile to one dollar per mile paid by the road having the property of lesser value. Tangible properties and earnings do not correspond proportionately, and it is evident that the franchise and intangible values cannot be estimated by a proportionate addition to the physical or tangible values.

"It was, therefore, deemed wise by the Commission that investigation along this line should be made and reported to the Legislature. No one more familiar with the subject, nor better fitted by education and experience to cope with this subject, could be suggested than Professor Henry C. Adams, professor of political economy at the Michigan University. He has been for many years statistician of the Interstate Commerce Commission and has had a wide experience along many lines especially preparing him for such work. He was employed to take charge of this branch of the appraisal.

"If the Legislature should elect to pass a law of this character it should have before it some positive information bearing upon the subject. The methods that have been employed and the results obtained are shown by reference to Professor Adams' report. Should the Legislature enact a law for the taxation of railroads upon an ad valorem basis, it will have a complete valuation of all physical properties and to complement the same an appraisal of franchise values, in addition to the physical, as found by Professor Adams. It will have also an independent valuation of all railroads of the State whose stocks and bonds are found upon the market."

The method by which Professor H. C. Adams accomplished this task is best given in his report to the Michigan Board of State Tax Commissioners which is as follows :

"To the Board of State Tax Commissioners, Lansing, Mich.

"Gentlemen :

"In reply to your request for a method of valuing the non-physical element in railway properties, I submit the following :

"First. It is understood that the object of the investigation instituted by the Michigan Tax Commissioners is to determine whether the properties imposed with specific taxes pay, upon their true value, a rate equal to the rate paid by property taxed under the general tax law. The suggestions here submitted pertain to railways organized as corporations, and whose chief business is that of transportation.

"Second. It is understood that, as one step in this investigation, the Commission has undertaken to appraise the physical property of railways (real estate included) and that the request made to me is to formulate a satisfactory rule for appraising the non-physical or immaterial element in railway corporations.

"Third. It is submitted that this non-physical or immaterial element is not a simple commercial element, but includes, among other things, the following :

"1. It includes the franchise (a) to be a corporation; (b) to use public property and employ public authority for corporate ends.

"2. It includes the possession of traffic not exposed to competition, as, for example, local traffic.

"3. It includes the possession of traffic held by established connections, although exposed to competition, as, for example, through traffic that is secured because the line in question is a link in a through route.

"4. It includes the benefit of economies made possible by increased density of traffic.

"5. It includes a value on account of the organization and vitality of the industries served by the corporation, as well as of the organization and vitality of the industry which renders the service. This value, consequently, is, in part, of the nature of an unearned increment to the corporation.

"Fourth. As corroborating the existence of this element of value in all successful corporate enterprises, reference may be made to the following facts :

"1. Corporations almost universally are bonded for an amount in excess of the value of physical properties less the proceeds of the stock issued. If traffic or goodwill or franchises or organizations can be made security for the borrowing of money, is it not evident that they possess an established commercial value?

"2. It is not uncommon for courts, in placing railway properties in the hands of receivers, to defend their action by the assertion that the step is necessary in order to prevent the disintegration of the property. Is it not a legitimate conclusion from this fact that the courts recognize organization as an element of value?

"3. The universal recognition of the necessity of supplementing the general property tax by some special method of taxation in the case of railways is an acknowledgment of the fact that the general property tax by ordinary methods of assessment does not attach itself to the full value of corporate property. The general property tax worked well when the major portion of property was material and visible; it failed to work well when, through the development of corporate enterprises and credit relations, immaterial values came to be relatively significant.

"Fifth. Inasmuch as nothing tangible or visible gives support to the value under consideration, it must be determined on the basis of information secured from the current accounts of the corporations. There are two accounts which may be used for this purpose, namely the general balance sheet and the income sheet. In the balance sheet will be found a statement of assets and liabilities, giving cost of road and equipment on one side and the par value of stocks and bonds on the other. For reasons that need not here be stated, these items are not satisfactory for the purpose which this commission has in view. It may be assumed that the appraised value of the physical property of railways (including franchise element in the right of way) will not coincide with the balance-sheet statement of cost of road and equipment.

"The practice adopted by many States of appraising railway property on the basis of the market value of stocks and bonds has something to be said in its favor, but it is not satisfactory. This point, however, need not be argued at the present time, because this commission, by instituting an appraisal of the physical assets of the corporations, has committed itself to a rule inconsistent with the valuation of corporate liabilities.

"In discarding the balance sheet as the basis of valuation, the commission is forced to accept for this purpose the income account, a conclusion which finds support in the established rules of corporation finance. The task of appraising railway properties, undertaken by this commission, is akin

to, if not identical with, the revaluation of railway securities, should this become necessary for reorganization or for transfer. As stated by Mr. Greene, an authority upon this subject, the holder of railway properties "must accept as a basis for revaluation of his securities the earning power of the company as a carrier of traffic." This "earning power" is undoubtedly the basis of all valuation of corporate properties, and it is the income account from which this earning power can be determined.

"Another reason for accepting the income account of railways as a basis for the appraisal of immaterial values, is that the rules of bookkeeping, so far as this account is concerned, are fairly uniform for all railways, and in the main rigidly followed. This is especially true so far as it is necessary to make use of the income account for the purpose of this commission. The degree of accuracy attained in this account may be suggested by reference to the official classification of operating expenses adopted and followed by the principal railways of this country, a copy of which is herewith submitted. I also submit in this connection the form of income account prescribed by the Interstate Commerce Commission and followed by the majority of State Commissions.

"Sixth. The rule submitted for the appraisal of the immaterial values of railway properties, or what I prefer to term the capitalization or corporate organization and business opportunity, is simple, as follows:

"1. Begin with gross earnings from operation, deduct therefrom the aggregate of operating expenses and the remainder may be termed the "income from operation." To this should be added "income of corporate investments," giving a sum which may be termed "total income," and which represents the amount at the disposal of the corporation for the support of its capital and for the determination of its annual surplus.

"2. Deduct from the above amount—that is to say "total income" as an annuity properly chargeable to capital—a certain per cent. of the appraised value of the physical properties.

"3. From this amount should be deducted rents paid for the lease of property operated and permanent improvements charged directly to income. The remainder would represent the surplus from the gross earnings from the year's operations, and for the purpose of this investigation may be accepted as an annuity which, capitalized at a certain rate of interest, gives the true value of immaterial properties.

"Seventh. To obviate the criticism that both gross and net earnings vary from year to year, it is suggested that, in place of a single year's income account, a period of 10 years be accepted as the basis of computation. The reason for accepting a period of 10 years is that under existing commercial conditions it is likely that the corporation whose property is appraised would, during that period, pass through years of both prosperity and adversity.

"Eighth. It will be observed that the above rule fails to appraise the speculative element in railway property. While this element doubtless affects the price of corporate stocks and corporate bonds, it is not entirely clear that it should influence appraisals for the purpose of taxation. Should, however, the commission desire to compute the present worth of property, as resting upon expectations in the future as well as upon earnings in the past, the pertinency of the above rule would not thereby be impaired. This is true, because the speculative value of properties must, from the nature of the case, be a modification of their true value computed upon the basis of their earning capacity."

A concrete case will illustrate Professor Adams' method:—

CHICAGO AND NORTHWESTERN RAILWAY.

Average for ten years :

Gross earnings from operation.....	\$ 1,971,951	
Operating expenses, exclusive of taxes.....	1,244,748	
Net income from operation.....		\$ 727,203
Net income from investment.....		46,860
Total available corporate income.....		774,063
Rents of Michigan property not included in Cooley Appraisal.....	0	
Interest on interest-bearing current liabilities.....	0	
Permanent improvements in Michigan charged to income.....	12,000	
Total deductions from corporate income.....		12,000
Surplus from operation.....		\$ 762,063
Mean value of physical elements (computed from Cooley appraisal)...	12,239,214	
Corporate surplus from operation.....		762,063
Tax of 1% allowed on mean value of physical elements.....	122,392	
Annuity of 4% allowed on mean value of physical elements.....	489,569	
Sum of tax and annuity.....		611,961
Net corporate surplus.....		\$ 150,102
Capitalization of net corporate surplus at 7%, giving value of non-physical elements.....	2,144,314	
Cooley appraisal of physical elements.....	13,106,048	
Present value of property.....		\$15,250,362

Report of 1902; p. 56.

Professor Adams afterwards admitted that his method of arriving at intangible values was not altogether accurate and would require revision.

As Professor Cooley explained to the Ontario Commission, "The appraisal of railway property in 1900 was made simply for the purpose of informing the Legislature of the value of railway property in the State, the object being to ascertain whether railway companies were paying their fair share of taxes in comparison with individual or general properties. On the strength of the report they changed the method of taxation from the specific to the ad valorem system."

The new law which accomplished this purpose under the amended constitution was passed in 1901 and slightly amended in 1903. In its present shape the essential features of the law are as follows:

"SEC. 4. It shall be the duty of said board to make an annual assessment upon an assessment roll to be prepared by said board, of the property having a situs in this State as hereinafter defined, of railroad companies, doing business within this State, car loaning companies, and refrigerator and fast freight line companies, and all other corporations owning, leasing, running or operating any freight, stock, refrigerator, or any other cars, not being exclusively the property of any railroad company paying taxes upon its rolling stock under the provisions of this act, over or upon the line or lines of any railroad or railroads in this State.

"SEC. 5. The term property as used in this act shall be deemed to include all property, real or personal, belonging to the corporation subject to taxation under this act, including the right of way, roadbed, stations, cars, rolling stock, tracks, wagons, horses, office furniture, telegraph or telephone

poles, wires, conduits, switchboards, and all other property used in carrying on the business of said corporations or owned by them respectively, and all other real and personal property and all franchises, said franchises not to be directly assessed, but to be taken into consideration in determining the value of the other property: *Provided however*, That this definition shall not include, apply to or subject to taxation such real estate as is owned and can be conveyed by such corporations under the laws of this State which is not actually occupied in the exercise of their franchises or in use in the proper operation of their roads or their corporate business, but such real estate so excepted shall be liable to taxation in the same manner and for the same purposes and to the same extent and subject to the same conditions and limitations as to the collection and return thereon, as is other real estate in the several townships or municipalities in which the same may be situate.

"SEC. 6. The several corporations enumerated in this act, doing business in this State, shall annually, between the first and thirtieth days of July in each year, under the oath of their president, secretary, treasurer, superintendent or chief officer of such company, make and file with the State Board of Assessors, in such form as said board may provide, upon blanks to be furnished by said board, a statement containing the following facts :

RAILROAD, UNION STATION AND DEPOT COMPANIES.

"The blanks furnished to railroad and union station and depot companies shall provide for the following information :

First, The name of the company;

Second, The nature of the company, and under the laws of what state or county organized;

Third, The location of its principal office;

Fourth, The name and postoffice address of the president, secretary, auditor, treasurer and superintendent or general manager;

Fifth, The name and postoffice address of the chief officer or managing agent of the company in Michigan;

Sixth, The number of shares of capital stock;

Seventh, The par value and market value, or if there be no market value, the actual value, of the shares of stock on the thirtieth day of June of the year in which the report is made;

Eighth, A detailed statement of the real estate owned by the company in Michigan, and where situate, and the value thereof;

Ninth, A detailed statement of the personal property, including moneys and credits owned by the company in Michigan on the thirtieth day of June in the year in which the report is made, where situate, and the value thereof;

Tenth, The total value of the real estate owned by the company situate outside of Michigan;

Eleventh, The total value of the personal property of the company situate outside of Michigan;

Twelfth, The whole length of their lines, and the length of so much of their lines as is within or is without Michigan, which lines shall include what said railroad companies control and use as owners, lessees, or otherwise;

Thirteenth, A statement of the entire gross receipts of the companies, from whatever source derived, for the year ending the thirtieth day of June in the year for which the report is made;

Fourteenth, Such other facts and information as said board may require, in the form of the return prescribed by it.

EXPRESS COMPANIES.

"The blanks furnished to express companies shall provide for the following information :

First, The name of the company;

Second, The nature of the company and under the laws of what state or county organized;

Third, The location of its principal office;

Fourth, The name and postoffice address of the president, secretary, auditor, treasurer and superintendent or general manager;

Fifth, The name and postoffice address of the chief officer or managing agent of the company in the State of Michigan;

Sixth, The number of shares of capital stock, (a) authorized; (b) issued;

Seventh, The par value and market value, or if there be no market value, the actual value of the shares of stock, together with the total amount of bonded indebtedness, on the thirtieth day of June of the year in which the report is made;

Eighth, The situation, income and value in detail of its real estate in this State;

Ninth, The total income from and cash value of all its real estate situated outside of this State;

Tenth, A full and correct inventory, at the true cash value, of its personal property, including moneys and credits, within this State;

Eleventh, The true cash value of all its personal property, including moneys and credits without this State;

Twelfth, The whole length and names of railroad lines and water and stage routes over which it did business, and separately, in detail, the portions of such lines and routes within this State, and the portion of such routes over navigable waters of the United States within this State;

Thirteenth, Such other facts and information as may be deemed necessary by the State Board of Assessors, or any member thereof, to the proper assessment of the property of such company.

CAR LOANING, STOCK CAR, REFRIGERATOR AND FAST FREIGHT LINE COMPANIES,
AND OTHER CAR COMPANIES.

"The blanks furnished to car loaning, stock car, refrigerator and fast freight line companies, shall provide for the following information :

First, The corporate name of the company;

Second, The nature of the business of said company, and under the laws of what State or country organized;

Third, The location of its principal office;

Fourth, The name and postoffice address of the president, secretary, auditor, treasurer and superintendent or general manager;

Fifth, The location of its principal office in the State of Michigan, together with the name and address of the chief officer or managing agent of the company in Michigan;

Sixth, The total number of cars and rolling stock of any such corporation run over or operated upon any line or lines of railroad within this State each day during the entire year preceding the date of making and filing such report;

Seventh, The cost of construction of each of said cars;

Eighth, The length of time the same has been in service;

Ninth, The cash value of each of said cars so operated and run in this State, at the time of making and filing this report;

Tenth, And such other and additional information as may be deemed necessary by said board, or any member thereof, to the proper assessment of the cars of such company in this State in accordance with the provisions of this act and to the performance of the duties imposed upon it thereby.

"SEC. 8. Subsequent to the filing of the reports required in the preceding section, and prior to the fifteenth day of January in each year, it shall be the duty of the said State Board of Assessors, to prepare an assessment roll as provided in section four of this act, upon which they shall assess at the true cash value on the thirtieth day of June of the year in which the assessment is made, all the properties of the companies herein enumerated, subject to taxation under this act, which said assessments shall not be final until reviewed as herein provided. For the purpose of arriving at the amount and character and the true cash value of the property belonging to said companies as appearing upon the assessment roll for the purpose of assessment and taxation, the said board may personally inspect the property belonging to said companies, and may take into consideration the reports filed under this act, the reports and returns of such companies filed in the office of any officer of this State, and such other evidence as may be obtainable bearing thereon. In determining the true cash value of the property of railroad and union station depot companies which own, lease, or operate lines partly within or partly without this State, the said board shall be guided, in ascertaining the property subject to taxation in Michigan, by the relation which the number of miles of main track within the State of Michigan bears to the entire mileage of the main track of said companies both within or without this State. In determining the cash value of the property of express companies, they shall ascertain and determine the actual value in money of the entire amount of the capital stock and bonded indebtedness of such express company. From the amount so obtained and determined, said board shall deduct the actual value of all real estate owned by it as ascertained by said board, and the actual value of all its personal property which is not used in the express business of such express company. And the remainder thus obtained shall be used in determining the assessment of such express company in the following manner : The said board shall then divide the amount obtained above by the total number of miles of railroad, stage, water and other routes over which the company did business to obtain the value per mile, and shall then multiply the value per mile thus obtained by the total number of miles of such routes within this State, exclusive, however, of the number of miles of water routes over the navigable waters of the United States within this State, to which results shall be added the value of all real estate owned by such express company in this State, as determined by said board, and the sum so obtained shall be taken and considered as the actual value of the property of such express company subject to assessment and taxation in this State. In ascertaining the cash value of the property of car loading, stock car, refrigerator, fast freight line and other car companies subject to taxation under this act, they shall ascertain the average number of cars used in this State during the year preceding the day of the filing of the report mentioned in the preceding section, such average to be determined by dividing the total number of cars so used or operated within this State during said year by the total number of days on which said cars were so used or operated, within this State; and they shall also ascertain the average cash value of such average number of cars, and from said data the total valuation shall be determined and shall be the assessment against the property of said corporation."

After the average rate of taxation for the whole State is ascertained by the board, this rate is to be levied upon the assessed value of the railroads and other companies to which the act applies. The State tax "shall be payable on the first day of April following the assessment and levy thereof, and shall be in lieu of all other taxes for State and local purposes." As to the application of the taxes when collected; in accordance with the provisions of the State constitution under the old system of specific taxation, "all taxes collected under this act shall be applied in paying the interest upon primary school, university and other educational funds and the interest and principal of the State debt, in the order herein recited, until the extinguishment of the State debt other than the amounts due to educational funds, when such taxes shall be added to and constitute part of the primary school interest fund; and such taxes as are collected under the provisions of this Act shall be treated and disbursed as specific taxes are now treated and disbursed."

As to how this works out in practice, we have the following statement from the tax commission of 1900: "During the last year corporations with one hundred and forty millions of authorised capital stock have been organized in Michigan. If specific taxes shall be increased upon or extended to other corporations than those now taxed by that method, the interest received will go into the primary school interest fund. That fund, together with the one mill tax, is now apportioned to the several counties of the State, according to the number of children of school age. This provision may be a very wise one, in that it makes children and not dollars the units for distribution, but the law now provides that these monies shall be used for teachers' wages only.

"Attention is hereby directed to the interesting and seemingly important fact that there are hundreds of school districts in the State where the monies now received from these two funds considerably more than pay all the wages of teachers employed.

"The surplus is retained and used for other expenses. In the case of township districts, it is retained for other township expenses and with school districts for unknown purposes, though, without doubt, wisely expended in most cases.

"If, perchance, these funds shall be more than doubled within the next few years, the opportunity will be greatly increased for misappropriation, since the great proportion of the 6,469 ungraded schools of the State levy no tax for teachers' wages, but depend entirely upon the distribution of the primary school and one mill tax."⁹

The first assessment under this Act was made in 1902, but it has been disputed by the railroads as unconstitutional, on the ground of its inequality, and the matter is now before the courts.

The original Board of Tax Commissioners was undoubtedly actuated by an enthusiastic zeal and singleness of purpose in its work. In its general capacity as a board for the control of the assessments for school, local and State taxes, and in reviewing and equalizing the work done by the local assessors throughout the State, it has accomplished great reforms. It has brought order out of chaos by the introduction of a uniform and impartial system for the assessment of real estate and personal property. As to whether the system reaches all forms of private wealth, which, in justice, ought to contribute to the public revenues, and especially that growing factor of income unrepresented by tangible property, is a question on which some at least of the members of the board have serious doubts. As a board

⁹ Report of 1900, p. 74.

of original and complete jurisdiction in the matter of assessing railroads and other corporations, its work has been, as the members admit, extremely difficult. At the same time it is without any practical check upon its operations, other than an appeal to the Supreme Court, which at best can only pass upon the legal aspects of assessment. It is evident, however, from the information obtained from the board itself, that its work with local assessments has more or less completely determined the methods of valuation which it has applied to such large and complex properties as railroads and other transportation corporations.

From the first it was evidently the conviction of the board, determined by the change which had been made imperative by popular vote, that some comparatively simple and direct method of valuation for railroads would be possible, such as was applied to ordinary private property. This idea was undoubtedly at the basis of the popular demand for "equality of taxation." It was in this faith that the board sought to have an expert valuation made of the physical property of the railroads.

"If it shall be sought to place only railroads, telegraph, telephone and express companies under the direct assessment of such a board, it would seem to be wise that ample provision be made for a correct, systematic and proper valuation to be made of their properties, as provided by the constitutional amendment.

"Such valuation should be made periodically by experts, men eminently capable, and all data, together with inventories, should become matters of public record, open to inspection.

"It is but nonsense to talk of placing the valuation of these immense properties, worth hundreds of millions, in the hands of men for valuation, with whom it would be a physical impossibility to make even an approximate valuation. If railroads and other like corporations are to be assessed upon valuations, only men capable of doing this work by training and experience can find even approximate values, and this should be done so openly that not the faintest suspicion may attach to the assessing board or to the corporations themselves."¹⁰

The board, however, found itself compelled to travel far from the proposed expert and open method of assessing railroad values.

Professor Cooley himself, a professor of engineering, not of finance, had no assurance as to the finality of his own results. In his interview with the Ontario Commission he said :—"After you have made a physical valuation and a careful investigation of the financial end of the problem, you have not then reached the value of a railway property. At that stage, with all that data at your hand, it needs a careful study of the road itself and the conditions of its management, the country through which it operates, the local conditions which may tend to increase or lower the value and affect its future. That we did not touch on, because it was the distinct duty of the Board of Tax Commissioners."

The Board of Tax Commissioners were themselves compelled to extend the range of their basis of valuation until they seemed to cover every known method. In the end, as Mr. Freeman, one of the Commissioners, stated, "When it comes to a question of the ultimate valuation of railroads, each member of the board has his own opinion." The result has been that the valuation which is actually put upon the railroads is a sort of compromise, which differs very materially indeed from the expert valuation of Professors Cooley and Adams. Their new method has also compelled the Board of Tax Commissioners to depart so completely from their original ideal of hav-

¹⁰ Report of 1900, p. 64.

ing the grounds of valuation made a matter of public record, that no factor in the valuation of the railroads is made public. An aggregate and final valuation is simply placed upon each railroad system by a method which, however conscientious on the part of the assessors, neither the railway nor the public is permitted to discover. Indeed, one cannot but sympathize with the perfectly frank admission of the board that were they to reveal the grounds of their valuation they would simply invite endless criticism and objection on the part of the railroads and other corporations which they are required by law to assess.

But a method of assessment the difficulties of which bring about such results seems at once unsatisfactory and dangerous when applied to such extensive properties as railroad corporations.

The wide variations in valuation between the different methods of estimating the Michigan railroads under the ad valorem system, are brought out in the table on pages 50, 51. It gives at once the separate and combined results of the valuations of Professors Cooley and Adams, whose methods were made public, the valuation as finally adopted by the Tax Commissioners, whose methods are not made public, and also the taxes levied on this valuation, and, by way of contrast, the taxes levied by the previous method.

In Michigan, as in almost all other states of the Union, no income tax is levied upon private individuals, there being a very strong and ancient prejudice against this form of taxation. In earlier times, under a less complex form of economic society, the income of the citizen was fairly proportioned to the amount of tangible property or simple securities held by him. Hence the absence of an income tax resulted in no appreciable inequality in taxation. In more recent times, however, not only has the great development of corporations altered this situation, but the highly specialized forms of personal employment, agency, and business enterprise, have altered the basis of incomes to such an extent that great numbers of moderate, and not a few very large incomes are enjoyed by people who do not possess any corresponding amount of taxable property. Under the existing system of taxation in Michigan, as well as in many other states, these incomes are practically exempt from all state or municipal taxation. This is acknowledged by even the stoutest advocates of the ad valorem system as one of its chief weaknesses.

In the case of certain corporations, however, there has been developed a tendency to make income a basis of taxation either directly or indirectly. Where the ad valorem system has been so strenuously advocated, as in Michigan, it has been necessary to invent a species of property which would express capitalized income. Thus by a sort of legal fiction the much over-worked term "franchise" has been made to cover this class of wealth. But in its earlier stages the tax commissioners apprehended difficulties. "It is not entirely free from doubt that "franchises" and other intangible properties, all of which are of great value to the owner and consequently legitimately available for taxable purposes, are assessable, as such, under our present tax law. We recommend that this class of property should be made assessable by special enactment, either as real or personal, and attendant to the property being assessed, or separate if desired or necessary, and that special provision also be made for the collection of all taxes assessed against this species of property; that Sec. 27, of the general laws, respecting the meaning of "cash value," should be amended so as to provide that, among other things that may be considered by the assessor in making up the cash or actual value of the property, he shall also consider the franchise, if any, at-

tendant upon or inherent in the property or its value, and all things else which in any way tend to add value to the property being considered."¹¹

In attempting to reduce everything to an ad valorem basis, the Commissioners acknowledge that they are practically shut up to one course by the demands of the public. "We are free to admit that these thoughts or conclusions are shaded, if not largely influenced by the demands of the people. The people have committed, as it were, its officials to policies which cannot be ignored; neither must they be swerved from their purposes or thwarted, without trial at least, in these demands. Indeed, we believe they are so intensely aroused that they will not brook from any official, interference with the enactment of law tending to carry their desires to fruition. We are aware that many eminent political economists and those said to be well informed do not accede to all these views; but the people, as a whole, have spoken with such unanimity, or large majority, for the uniform ad valorem taxation of the properties in the State that legislation looking to these results, it would seem, is imperative."¹²

Yet, notwithstanding the tendency to make physical property and its valuation the basis of assessment, one of the first commissioners, Mr. Robert Oakman, in a special report, and in discussion with the Ontario commission, recognized with Prof. Adams that after all it is earning power which lies at the basis of true market value and should be the ultimate basis of assessment. "The earning power of a property often determines the market or cash value of it, and in many cases is the only means which can safely be relied upon. But the earning power embraces in its term many things, such as advantage and disadvantage of location, quality, quantity, market facilities, environment and many other conditions. None of these things, however, can be assessed separately nor valued separately, but are simply considered as a means of fixing the true value of the property as an entirety." In speaking of the methods of valuation he says, "It (the board) know that many of these corporations, each one of whom, by the business it transacts, by combining into a single use all the separate pieces and articles of tangible property, by the contracts, franchises and privileges which it has acquired and possesses, has created a corporate property more or less valuable according as it produces an income greater or less in amount." And again, with special reference to railroads, he says, "In the markets of the world these properties have a value which is measured mainly by the income which they will produce. The commercial world, when it desires to invest in the stocks and bonds issued by these corporations, informs itself about the earning capacity of the properties on which they are based. All its search lights are directed upon their earning power. Why should not the State do likewise?"¹³

Thus, though earning power had been expressly discarded, as a basis of taxation, and the ad valorem system adopted in its place, yet the more the Commissioners studied the subject in its practical operation, the more they were driven back to income as the leading factor in value. They would seem to have ended by a sort of compromise between the two methods of valuation, which may account for the very high assessment which they have attached to some roads as compared with the valuation of the experts or the previous system of taxation. Owing, however, to the policy adopted of refusing to make public the basis or composition of their values, it is impossible to go behind their own statement that, having taken all things into consideration such and such is the value which they place upon the property. The nearest

¹¹ Report, 1900, p. 136.

¹² Report of 1900, p. 139.

¹³ Report of 1900, pp. 146, 148.

Name of Company.	Prof. M. E. Cooley.		Prof. Adams. H. C. Adams.	Cooley-Adams. Entire Value.	Value as Reviewed 1903.	Taxes levied by State Board 1903.		Taxes levied by Railroad Com- missioner 1902.
	Cost of Reproduction.	Present Value.						
Ann Arbor.....	\$ 7,312,389	\$ 6,023,762	\$ 332,443	\$ 6,356,205	\$ 7,582,000	\$ 103,790 38	\$ 45,749 96	
Acadita & Belsey River.....	186,300	150,185		150,185	75,000	1,026 68	301 52	
An Sable & Northwestern.....	477,530	380,494		380,494	50,000	2,053 36	1,285 09	
Boat Lake and Eastern.....	120,842	78,812		78,812	15,000	205 84	241 16	
Boyle City & Southeastern.....	270,092	222,443	78,811	301,314	250,000	3,422 26	1,431 98	
Chicago, Kalamazoo & Saginaw.....	621,064	504,890		504,890	420,000	5,749 40	2,121 16	
Chicago, Milwaukee & St. Paul.....	3,268,432	2,651,153		2,651,153	3,400,000	46,542 77	14,303 26	
Chicago & Northwestern.....	15,883,444	13,106,048	2,144,314	15,250,362	14,750,000	201,913 49	94,895 21	
Cincinnati, Northern.....	652,769	526,060		526,060	350,000	4,791 17	2,709 71	
Cleveland, Cincinnati, Chicago & St. Louis.....	959,066	755,913		755,913	985,000	13,483 71	5,013 09	
Crawford and Manistee River.....	53,093	37,105		37,205	37,000	506 49	147 52	
Copper Range.....	1,182,864	1,151,701		1,151,701	2,100,000	28,747 00	3,425 76	
Detroit & Charlevoix.....	472,621	453,801		453,801	456,000	6,160 07	185 36	
Detroit and Mackinac.....	4,171,053	3,453,915	395,943	3,851,858	4,100,000	56,125 13	23,137 13	
Detroit Southern.....					600,000	8,213 43	4,698 11	
Detroit and Toledo Shore Line.....	2,850,686	2,652,526		2,652,526	950,000	13,004 60	10,679 80	
Detroit Union R.R. Depot & Station Co.....	11,325,302	8,770,724	3,678,814	12,449,538	1,700,000	23,271 38	68,804 30	
Duluth, South Shore and Atlantic.....	2,195,542	1,629,223		1,629,223	1,800,000	24,640 29	6,103 33	
Detroit, Toledo & Milwaukee.....					120,000	1,642 60	150 57	
East Jordan & Southern.....					1,125,000	15,400 18	3,147 45	
Escanaba & Lake Superior.....	719,304	664,159		664,159	1,750,000	23,955 82	8,217 29	
Fort Street Union Depot Co.....	1,527,992	1,444,347	938,440	2,382,787	1,750,000	23,955 82	8,217 29	
Gogebic & Montreal River.....	157,090	8,762,732		378,732	380,000	5,201 84	800 19	
Grand Rapids & Indiana.....	10,291,480	8,762,732	806,743	9,568,893	10,500,000	10,266 79	82,101 01	
Muskegon, Grand Rapids & Indiana.....	646,314	331,261	134,600	465,861	750,000	10,967 18	4,967 18	
Traverse City.....	864,140	584,261		668,861	250,000	3,422 26	1,325 93	
Grand Trunk Western.....	7,004,352	5,555,887	2,891,243	8,447,130	11,000,000	150,579 55	119,468 09	
Chicago, Detroit and C.G.T. Junct.....	2,993,751	2,270,836		2,270,836	2,200,000	30,115 91	9,750 57	
Cincinnati, Saginaw and Mackinaw.....	1,361,790	1,093,748		1,093,748	750,000	10,266 79	4,797 60	
Michigan Air Line.....	1,551,114	1,188,089		1,188,089	600,000	8,213 43	3,251 04	
Detroit, Grand Haven and Milwaukee.....	7,131,706	6,195,171		6,195,171	84,903 67	34,583 80	5,363 18	
St. Clair Tunnel.....	1,678,963	1,574,625		1,574,625	1,800,000	24,640 29	5,363 18	
Toledo, Saginaw and Muskegon.....	1,335,876	1,083,104		1,083,104	650,000	8,897 88	3,640 81	
Hecia & Torch Lake.....	672,727	469,878		469,878	380,000	4,791 17	1,363 17	
St. Joseph, South Bend & Southern.....	506,089	430,271		430,271	300,000	19,164 67	6,891 97	
Lake Superior and Ishpeming.....	2,101,356	1,864,940		1,864,940	1,400,000	410 67	260 15	
Lewis and Clark.....	67,138	48,975	3,387,043	48,975	30,000	125,939 26	39,805 99	
Detroit & Chicago.....	4,377,262	3,606,922		3,606,922	9,200,000	3,143 48	455 25	
Detroit, Hillsdale & Southwestern.....	290,098	233,421		233,421	230,000	9,582 34	1,206 75	
Perritt, Munroe & Toledo.....	884,099	719,567		719,567	700,000	52,018 39	22,063 85	
Perritt, Hillsdale & Toledo.....	2,336,246	2,245,928	938,629	3,181,557	3,800,000	10,051 24	2,040 33	
Fort Wayne & Jackson.....	736,164	602,009		602,009	800,000	18,917 11	3,974 71	
Kalamazoo, Allegan & Grand Rapids.....	1,860,579	1,519,881	294,071	1,813,952	910,000	12,329 44	2,801 77	
Kalamazoo & White Pigeon.....	1,029,288	837,989		837,989	900,000	12,329 44	2,801 77	
Northern Central Michigan.....	133,538	111,517		111,517	100,000	1,368 91	114 96	
Sturgis, Goshen & St. Louis.....								

Manistee & Grand Rapids.....	823,136	706,133	500,000	6,844 53	3,323 45
Manistee & Luthier.....	510,884	388,185	150,000	2,953 36	915 85
Manistee & Northeastern.....	1,853,623	1,650,213	1,500,000	20,533 38	9,251 70
Manistique Railroad.....	1,422,159	627,681	500,000	3,422 26	2,346 53
Manistique, Marquette & Northern	601,256	467,760	500,000	6,814 53	3,711 04
Marquette & Southeastern.....	265,606	183,763	75,000	6,023 18	452 73
Mason & Genesee.....	20,570,968	17,623,749	27,500,000	1,026 68	6 84
Michigan Central.....	426,986	335,806	290,000	376,448 83	233,693 61
Bay City & Battle Creek.....	298,415	246,468	150,000	3,969 82	610 42
Bucara & St. Joseph River.....	24,729	20,971	10,000	2,063 36	311 36
Canada Southern Bridge Co.....	325,501	221,670	300,000	136 89	52 18
Detroit & Bay City.....	4,898,753	4,155,677	3,900,000	4,106 72	29,114 06
Detroit, Delray and Dearborn.....	90,027	66,262	30,000	47,911 68	684 49
Grand River Valley.....	1,937,158	1,599,154	1,400,000	19,604 67	11,227 36
Jackson, Lansing & Saginaw.....	7,636,132	6,034,496	4,500,000	61,608 73	51,439 71
Kalamazoo & South Haven.....	544,929	444,913	325,000	61,608 73	2,015 30
Michigan Air Line.....	2,862,267	2,147,125	1,875,000	25,668 97	8,026 01
Michigan, Midland & Canada.....	163,458	123,774	100,000	1,368 91	160 83
Polledo, Canada Southern & Detroit.....	2,608,507	2,021,064	5,000,000	68,445 25	57,283 17
Milwaukee, Benton Hbr. and Columbus.....	368,908	288,867	2,000,000	27,378 10	785 32
Mineral Range.....	1,516,299	1,362,041	2,000,000	27,378 10	17,431 81
Minneapolis, St. Paul & Sault Ste. Marie.....	5,159,422	4,016,206	5,100,000	69,814 15	24,518 44
Munising.....	802,913	732,566	410,000	5,612 51	1,415 46
Northern Michigan.....	Onaway & North Michigan.....	18,000	18,000	246 40	147 89
Port Huron Southern.....	Pere Marquette.....	26,000	26,000	355 92	255,818 96
Grand Rapids, Belding & Saginaw.....	Bay City Belt Line.....	24,550,000	24,550,000	336,066 18	3,764 49
Grand Rapids, Kalkaska & Southeastern.....	Grand Rapids, Tuscola & Huron.....	275,000	100,000	1,368 91	5,133 39
Pontiac, Oxford and Northern.....	Quincy & Torch Lake.....	335,000	375,000	9,582 33	13,689 05
Rapid Railroad.....	Sault Ste. Marie Bridge Co.....	700,000	1,000,000	3,764 05	6,175 22
Sault Ste. Marie and Eastern.....	South Haven and Eastern.....	275,000	275,000	102 67	950 82
Toledo & Monroe.....	Traverse City, Leelanau & Manistique.....	400,000	400,000	5,475 62	1,675 71
Wabash.....	Wisconsin and Michigan.....	325,000	325,000	4,448 94	5,133 39
		875,000	875,000	47,911 68	48,805 82
		3,500,000	3,500,000	3,080 01	9,39 07
		225,000	225,000		

approach that can be had to the method of assessment which at present prevails in Michigan, is expressed in such terms as these: "It may well be said that there is no more difficult class of property to value than that of a railroad company, embracing as it does a wide variety ranging from lands even to mines and manufactories. A great many different methods have been advocated, and much has been written by the exponents of these ideas, each one presenting something worthy of consideration. It is noticeable, however, that the general trend of thought among all who have written on this subject lies in the direction of some one plan or method which is sweepingly applied to the entire list of railroads of the State or group. In some instances the properties have been arranged in groups, according to earning power, market value of their securities or other distinctive feature.

"The definition of cash value in this State is so broad that it necessarily includes every element of value, and the conception of the valuation of railroad property that does not include its whole meaning must be incomplete. It is, therefore, the opinion of this board that no one plan may be arbitrarily applied, but that each individual property should be subjected to an examination covering every possible phase of the question. A railroad property may be worth more or less than its physical value, but how much more or how much less will be largely dependent upon the amount invested taken in connection with the earning power and other governing principles."¹⁴

In discussing the matter with the Ontario Commission, Mr. Freeman, who was the chief spokesman of the board, said that in valuing a railroad, "the object is to find out what the road will sell for, taking into consideration its earnings, location, stock and bonds, everything, in fact, that we can get to determine the value." In fact he reaches the conclusion that railroads are to be valued on the same principle as a horse. "These properties must be assessed at their cash value and cash value is duly defined for us by Statute. It is the usual selling price of property at the place where located, at a private and not at an auction, or forced sale, taking into consideration all the elements surrounding the property, like location, mineral deposits, water power and privileges, or anything else that goes to make it valuable, taking into consideration *everything*." And again "What are the elements of railway value? What do a buyer and seller look at? Is it cost of reproduction, location, stock and bonds, and so forth? It is not any one thing, I say Professor Adams cannot obtain a valuation on property by any single element, such as earning power. That may be one of the best features to consider, but there are many others to consider as well. I would find out a railway's earning power and after I had obtained that I would apply what a reasonable man would say should be a proper percentage to capitalize. There you will find a large difference of opinion, however, ranging all the way from four to ten per cent. But I think Judge Groscup hit the nail on the head in the case that came before him in the courts, where he applied the rule at six per cent. and allowed for taxes, replacement, keeping up the maintenance of the road, but not for renewals. Now there is a stock and bond theory in which I have no faith, because it is well known that this is nothing more than a manipulation of the stock exchange, and we have had the paradox of the railways increasing in value a year or two ago, whereas the stocks went down, so this is no criterion to help us, although we will take it into consideration."

Further, Mr. Freeman would seem to have abandoned in practice Professor Cooley's method of valuating properties in detail. In reply to the

¹⁴ Report of 1902, pp. 51-2.

suggestion that the right of way of two roads coming into a city might be of very different values owing to the sections of the city through which they pass, Mr. Freeman says, "Now you are attempting to divide up the property as you would divide up the works of a watch. You cannot get at it in that way. You must assess the road in its entirety under the laws of our supreme court." Referring to Professor Cooley's statistics, the Secretary of the Board, Mr. Gullifer, said that they made just as much or as little use of his valuation as they pleased, and on this point Mr. Freeman took the same position.

Other members of the board, Mr. Sayre and Mr. Dust, in addition to the elements mentioned by Mr. Freeman, would consider the future possibilities of the road, its opportunity for development, etc., but with this Mr. Freeman did not altogether agree. If these considerations were given much weight, the result would be to tax the railroads not merely for what they are worth at the present time, but for much of their future development as well, though the future development would be taxed also when it became actual.

Throughout the interview with the board it was made quite clear that its members had reached the practical attitude of refusing to pin their faith to any special method of valuation. All factors contributing to value were supposed to be taken into consideration. In this way they avoided entirely the responsibility of saying how their ultimate assessment was made up, even assuming it to be known to themselves. Obviously, however, such a system has the fatal defect of making it impossible either for the railroads or the general public to distinguish between the most accurate and conscientious valuation, and mere ignorant guess-work or quite prejudiced and even dishonest returns. Certainly one cannot imagine a more complete departure from the fundamental basis laid down by the tax commission for the administration of the new system. "Such valuations should be made periodically by experts, men eminently capable, and all data together with inventories, should become matters of public record, open to inspection. Any private office valuation would lead to grave charges."

INDIANA.

The ad valorem method of taxation, as operated in Indiana, affords one of the best examples of a careful, reasonable and practical operation of the system, to be found in the United States. In Michigan and Wisconsin, as we have seen, a conscientious effort is evidently being made to carry out the wishes of the people in their determination to have the property of corporations taxed on the same basis as ordinary private property. The ad valorem, or general property system of taxation, by which this is to be accomplished, has just been introduced in those states and indicates as yet a certain lack of flexibility characteristic of newly adopted institutions. What may be the normal outcome in these states it is as yet impossible to determine, but in Indiana, whose system has been the model for Michigan, and, through it, for Wisconsin, ad valorem taxation has been in operation sufficiently long to have attained considerable flexibility in operation, and, in its present form, not too long to have got into those official ruts, which an extensive and elaborate organization is apt to wear for itself, and from which, in proportion to its weight and complexity, it is so difficult to escape.

As the system of taxation for railways, as well as for other transportation corporations, including telegraph and telephone companies, is practically the same as that for all other forms of property, except as to the author-

ity making the original assessment, it will be necessary to give in outline the general system of the State.

As usual in case of general property taxation, practically all property, real and personal, is held to be subject to assessment. There is not, however, any income tax. As regards the organization of the system, there is, first, a body of local or township assessors, who assess all ordinary property, real and personal, within their respective areas, giving a classified list of the property so assessed with the values attached. These lists are then passed in review by county boards, who seek to equalize the township assessments in order to secure a full, fair and uniform valuation throughout each county.

In addition, these county boards have original jurisdiction in assessing all ordinary economic corporations, except railways and other transportation companies. The township boards, however, have already assessed the real and personal property of these corporations, as found within their limits. The county board estimates the value of each corporation as a whole, and if that does not exceed the valuation of its real and personal property, as found by the township assessors, no change is made. If, however, the valuation of the corporation as a whole exceeds that of its real and personal property, the difference represents one phase of what is called franchise value, or intangible value, and this is added to the value of the tangible property as already assessed.

Lastly, the State Board of Tax Commissioners passes in review the assessments of the county boards and hears appeals from their assessments. In addition, it is a board of original jurisdiction for the assessment of railways, steam and electric, and all other transportation companies, such as sleeping car, private freight car and express companies, as also telegraph, telephone, and pipe line companies, at least where the latter pass beyond a single county. These valuations are then distributed to the various counties and townships throughout the State. Each one of these local bodies having determined what taxes must be raised for the year, levies its own particular rate upon the property assigned to it, together with the property already assessed within it. Thus there are three rates, township, county and State, levied upon all property. The special function of the State Board is, therefore, to fix and adjust values throughout the State, not to collect and distribute taxes.

As regards railway assessment and taxation, the chief features of the existing law are as follows:—

“Immediately upon the taking effect of this Act, the Governor shall appoint two skilled and competent persons, not more than one of whom shall be of the same political party, who, together with the Secretary of State, Auditor of State, and Governor, the last three of whom shall *ex-officio* be members, and the Governor chairman thereof, shall constitute and be a board to be denominated the State Board of Tax Commissioners, who shall perform the duties and have the powers hereinafter specified.

“It shall be the duty of the State Board of Tax Commissioners:

“First: To prescribe all forms of books and blanks used in the assessment and collection of taxes, and to change such forms when prescribed by law, in case any such change shall be necessary.

“Second: To construe the tax and revenue laws of the State and instruct them in relation to their duties with reference to taxation and assessments, whenever requested so to do by any officer acting under any such laws, or by any other person interested therein.

“Third: To see that all assessments of property in this State are made according to law.

"Fourth: Especially to see that all the railroads and other corporations of the State are assessed and taxed as provided by law.

"Fifth: To see that all taxes due the State are collected.

"Eighth: To examine all books, papers and accounts, and to interrogate under oath, or otherwise, all persons necessary to enable the board to acquire and obtain all information that could in any manner aid in securing the compliance with the tax and revenue laws of the State by all persons or corporations liable to taxation, or to pay any license fee under any law in force in this State.

"Eleventh: To make diligent investigation and inquiry concerning the revenue laws and systems of other States and countries, so far as the same are made known by published reports, or statistics, or can be ascertained by correspondence with officers thereof, and with the aid of information thus obtained, together with experience and observation of our own laws, to recommend to the General Assembly at each session thereof, such amendments, changes or modifications of our revenue laws as seem proper or necessary to remedy injustice or irregularity in taxation, or to facilitate the assessment and collection of public revenues.

"Twelfth: To see that each county in the State be visited by at least one member of the board, as often as once each year, to the end that complaints concerning the law may be heard, and that information concerning its workings may be collected. That all revenue officers comply with the law, and all violations thereof be punished, and that all proper suggestions as to amendments and changes may be made.

"That said Board of State Tax Commissioners shall annually convene in the office of the Auditor of State on the second Monday of July of each year for the purpose of assessing railroad property—denominated 'railroad track' and improvements thereon, and 'rolling stock,' and all property belonging to telegraph, telephone, palace car, sleeping car, drawingroom car, dining car, express and fast freight joint stock association companies, co-partnerships and corporations, transacting business in the State of Indiana, and shall devote such time as shall be necessary to make such assessments, not exceeding, however, twenty days. They shall re-convene on the first Monday succeeding said first session for the purpose of hearing appeals and applications for revision of assessments which, by law, they are required or permitted to make. and for the purpose of equalizing the assessment of real estate whenever real estate is to be assessed or equalized as provided by law. They shall re-convene on the first Tuesday succeeding the expiration of the fifteen or twenty days limitation of their session, for hearing appeals and applications for revisions, for the purpose of hearing complaints or applications for change in the assessment made, by the owners of railroad property, and all other persons, partnerships, associations, companies, or corporations whose assessments have been fixed at the first session in this section provided for, but such session shall not exceed ten days. The said State Board of Tax Commissioners is hereby given all the powers given to county boards of review. They shall not be bound by any reports or estimates of railroad, real estate or other property as returned to the county auditors, or to the Auditor of State, or certified to the Auditor of State in connection with appeals or applications for revision, review or assessment, but shall appraise and assess all property coming before them for assessment, directly or indirectly, at its true cash value according to their best knowledge and judgment. They shall have power to send for persons, books and papers, to examine records, hear and question witnesses.

"Every person, company, or corporation owning, managing, operating or constructing a railroad in this State, shall cause all taxable property, not

including property specifically taxed, to be listed, with reference to its amount, kind and value, on the first day of March of the year in which it is listed.

"Between the first day of March and the 15th day of May, of the year 1891, and at the same time in each year thereafter when required by the county auditor, any person, company or corporation, so owning, managing, operating or constructing a railroad shall make and file with the County Auditor of the respective counties in which the railroad may be located, a statement or schedule, verified by the oath of such person, or the President and Secretary of such corporation, showing the property held for right of way, and the length of the main and all side and second tracks and turn outs, in such county, and in each city or town in the county through, or into which the road may run, describing each tract of land, other than a city or town lot, through which the road may run in accordance with the United States, or other surveys, giving the width and length of the strip of land held in each tract and the number of acres thereof. They shall also state the value of improvements and stations located on the right of way. New companies shall make such statement in March next after the location of their roads. When such statements shall have been once made, it shall not be necessary to report the description as herein before required, unless directed so to do by the County Auditor; but the company shall, during the month of March, annually, report the value of such property, by the description set forth in the next section of this Act, and note all additions or changes in such right of way as shall have occurred.

"Such right of way, including the superstructures, main, side or second track and turn-outs, turn-table, telegraph poles, wires, instruments and other appliances, and the stations and improvements of the railroad company on such right of way (excepting machinery, stationary engines and other fixtures, which shall be considered personal property) shall be held to be real estate for the purpose of taxation and denominated "railroad track", and shall be so listed and valued, and shall be described in the assessment thereof as a strip of land extending on each side of such railroad track and embracing the same, together with all the stations and improvements thereon, commencing at a point where such railroad track crosses a boundary line in entering the county, township, city or town, tending to the point where such track crosses the boundary line leaving such county, township, city or town, to the point of termination in the same, as the case may be, containing—acres more or less (inserting name of county, township or town or boundary line of same and number of acres in length of feet).

"The value of 'railroad track' shall be listed and taxed in the several counties, townships, cities, or towns in the proportion that the length of the main track in such county, township, city or town bears to the whole length of the road in this State, except the value of the side or second track, and all the turn-outs and all station houses, depots, machine shops or other buildings belonging to the road, which shall be taxed in the county, township, city or town in which the same are located.

The movable property belonging to a railroad company shall be held to be personal property, and denominated for the purpose of taxation 'rolling stock.' Such rolling stock shall be listed and taxed in the several counties, townships, cities and towns in the proportion that the main track used or operated in such, county, township, city or town bears to the length of the main track used or operated by such person, company or corporation, whether owned, operated or leased by him or them, in whole or in part.

"All personal property of any railroad, except that specifically taxed and including the tools and material for repairs, machinery, fixtures and

stationary engines, shall be listed and assessed in the county, township, city or town, wherever the same may be, on the first day of March of each year.

“All real estate of any railroad company other than that denominated ‘railroad track,’ with all the improvements thereon, shall be listed as lands and lots, as the case may be, in the county, township, town or city where the same are located. In describing such real estate wherever a railroad company shall have made or makes and records a plat of any contiguous lots or parcels of land belonging to it, the same may be described as designated on such plat.

“Between the first day of March and the 15th day of May of each year, every person, company or corporation, owning, constructing or operating a railroad in this State, shall return to the County Auditor a list or schedule verified by the oath of such person so owning, constructing or operating if an individual, or if a company or corporation, by the oath of the Superintendent or Secretary of such company or corporation, which shall state the mileage of railroad track, giving the length of the main and side or second track and turn-outs, and showing the proportion of such mileage located in each municipal sub-division of said county, together with the total in the county. Said list or schedule shall also contain a full and correct inventory of all the other personal property of such railroad company in said county not specifically taxed, including the tools and machinery for repairs, the machinery, fixtures and stationary engines, and such property shall be classified and separated into the particular, county, township, cities and towns wherein the same may be on the first day of March, with the true cash value thereof, on the first day of March of the current year. Such list shall also contain an inventory of all the real estate other than that denominated ‘railroad track’, owned by said railroad company, on the first day of March of the current year. Such property shall also be listed with reference to the amount, kind and value, on the first day of March of the year in which it was listed.

“The County Auditor, as soon as he receives such list shall return to the proper assessor a copy of so much of said list as relates to assessable property therein contained, and such property shall be listed and assessed by such assessor. Such property shall be treated in all respects, in regard to assessment and equalization, the same as other similar property belonging to individuals, except that it shall be treated as property belonging to railroads, under the terms ‘land,’ ‘lots’ and ‘personal property.’

“At the same time that the lists or schedules as hereinbefore required to be returned to the County Auditor the person, company or corporation running, operating or constructing any railroad in this State shall under the oath of such person, or the Secretary or Superintendent of such Company or Corporation, return to the Auditor of State sworn statements or schedules as follows:

First: Of the property denominated ‘railroad track’, giving the length of the main and side, of the second tracks and turn-outs, and showing the proportions in each county and township, and the total in the State.

Second: The rolling stock, whether owned or hired, giving the length of the main track in each county, and the entire length of the road in this State.

Third: Showing the number of ties in track per mile, the weight of iron or steel per yard used in the main and side tracks, what joints or chairs are used in track, the ballasting of road, whether gravelled, stone or dirt, the number and quality of buildings or other structures on railroad tracks, the length of time iron or steel in track has been used, and the length of time the road has been built.

Fourth: A statement or schedule showing:

"1st. The amount of capital stock authorized and the number of shares into which such capital stock is divided.

"2nd. The amount of capital stock paid up.

3rd. The market value, or if no market value, then the actual value of the shares of stock.

"4th. The total amounts of all indebtedness except for current expenses for operating the roads.

"5th. The total listed valuation of all intangible property in this State. Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the Auditor of State.

"The Auditor of State shall annually on the meeting of the State Board of Tax Commissioners lay before said board the statements and schedules herein required to be returned to him, and said board shall assess such property in the manner hereinafter provided.

"For the purpose of properly equalizing the valuations of real and personal property, and railroad property within the State, it shall be the duty of the County Auditors on or before the 20th day of July of each year, upon the receipt of the assessment books, to make out and transmit to the Auditor of State an abstract of the assessment of property, showing the number, value and average value of each class or kind of enumerated property as shown by the assessment, the value of each item of unenumerated property, the total value of personal property, the value of such lands with improvements, and, in like order, all city or town in-lots and out-lots, showing the value of such lots with improvements, the length of the main track, or tracks, the length of the side-track, or tracks, the number or description, the value and average values of each separate item of railroad property.....the value to be given in said abstract shall be the assessed valuation, except in the case of railroad property, denominated railroad track and rolling stock, the value of which shall be given as returned by the railroad company to the County Auditors.

"The State Board shall also assess the railroad property, denominated in this Act as 'railroad track' and 'rolling stock,' at its true cash value, and said board is hereby given the power and authority, by committee or otherwise, to examine persons or papers. The amounts so determined and assessed shall be certified by the Auditor of State to the county auditors of the proper counties. The County Auditor shall, in like manner, distribute the value so certified to him by the Auditor of State to the several townships, cities and towns in his county, entitled to a proportionate value of such railroad track and rolling stock; and said auditor shall compute and extend taxes against such value the same as against other property in such townships, cities and towns.

"When said board shall have separately considered the several classes of property as hereinbefore required, the result shall be combined into one table and the same shall be examined, compared and perfected in such manner as said board shall deem best to accomplish a just equalization of assessment throughout the State, preserving, however, the principle of separate rates for each class of property."¹⁵

Electric cars are treated in the same manner as steam railroads.

Before 1893 sleeping car and similar companies were taxed on their gross receipts, those incorporated within the State at the rate of 10 per cent. on their gross receipts arising from business originating and terminating within the State. In the case of companies "incorporated under the laws of

¹⁵ Indiana Laws Concerning Taxation, 1904.

any other State," they were taxed 2 per cent. on the gross receipts, determined by the proportion which "the distance travelled in the State bears to the whole distance paid for." Under the law as it now stands, however, telegraph, telephone, sleeping car, express and other transportation corporations are brought under the ad valorem system. The State Board of Tax Commissioners, from special returns required to be furnished by these companies make a valuation of the stocks and mortgage bonds of each company. This gives the true cash value of the whole property of each corporation. From this is deducted the value of the real estate assessed for taxation outside of the State of Indiana. "Said State Board of Tax Commissioners shall next ascertain and assess the true cash value of the property of such associations, within the State of Indiana, by taking the proportion of the whole aggregate of said associations, etc., as above ascertained, after deducting the assessed value of such real estate without the State, which the length of lines of said associations, etc., in the case of telegraph and telephone companies, within the State bears to the total length of lines thereof, and in the case of palace, and drawingroom, sleeping, dining, chair car, oil car, refrigerator car companies, and companies owning cars for the transmission of fast freight, horses, cattle, hogs, sheep, or any other freight of any description, the proportion shall be the proportion of such aggregate value, after such deduction, which the length of line within the State over which said cars are run bears to the length of the whole lines over which said cars are run, and in the case of express companies the proportion shall be in the proportion of the whole aggregate value after such deductions, which the length of lines within the State of Indiana bears to the whole length of the lines or routes of such associations, etc., and such amount so ascertained shall be deemed and held as the entire value of the property of said associations, etc., within the State of Indiana.

"Said State Board of Tax Commissioners shall thereupon ascertain the value per mile of the property within the State by dividing the total value, as above ascertained, after deducting the specific properties locally assessed within the State, by the number of miles within the State, and the result shall be deemed and held as the value per mile, of the property of such association, etc., within the State of Indiana."¹⁶

The value is then distributed to the various counties of the State by multiplying the mileage of each corporation within the county by the value per mile found for the State. This, in turn, is distributed by the county auditors in like manner, among the several townships.

It will be recognized that the system is a very complex one, and that, as with all forms of the general property tax when applied at once to township, county and state purposes, its fair operation depends upon an elaborate and perfectly adjusted organization extending throughout the state and municipal divisions.

The Indiana Board considered that the State of Michigan had made a mistake in eliminating the county assessors and board of equalization, and having only local or primary assessors and a central state board. By having county boards to assist the township assessors and to check their results with accurate local knowledge, the Indiana system, it was claimed, relieved the strain on the State Board and secured more accurate results.

In Indiana the two specially appointed members of the State Board of Tax Commissioners devote their whole time and attention to the working of the system throughout the State. This implies also that the county and

¹⁶ Indiana Laws concerning Taxation, 1904.

township assessors, including the city and town assessors, are required to devote a great deal of time and study to their respective duties.

As required by law, the State Board of Tax Commissioners meets three times a year. During the first term of twenty days the board exercises its original jurisdiction in valuing the property of the railways and other transportation corporations, and distributing the values to the different counties, to be distributed again to their several townships, according to the returns, which, in accordance with the law, have already been furnished to each municipality by the railways, etc., passing through it. During the second period of fifteen days, the board sits as a court of appeal from the action of the county boards. And during the third term of ten days, the board once more sits to hear appeals from its valuation of railroads, etc., as made during the first term.

As the two special tax commissioners of the board, Messrs. Martin and Wingate, devoted their whole time to the work of valuation, assessment and equalization, they were naturally more familiar than the other members of the board with the detailed working of the system. It was from these gentlemen that the Ontario Commission obtained much interesting information upon the practical operation of the Indiana system.

In valuing the property of railways in particular, the Board of Tax Commissioners held itself free to take into consideration everything that might affect the value of the property. Their object, as Mr. Wingate said, was to "take into consideration the same elements as if we were going to buy the property." But as railways can hardly be said to have a market value, the Commissioners explained that, in valuing railway property, they considered the earning power of the road, its physical condition, cost of construction in all its details, the capital, as represented by the stocks and bonds, the location of the line, i.e. whether the districts through which it passed were densely or sparsely peopled, what cities or towns it passed through; and in fact all possible features which might affect the value of the railroad as a going concern. They did not, however, as in Michigan or Wisconsin, employ any experts in the way of engineers or others to get at the valuation of the physical property apart from the other elements of value. They simply used their own judgment on the basis of the returns furnished by the railways, and what other information, general or local, they were able to obtain as to the relative values of the roads operating in the State.

In reply to the question as to how they made up their valuation and what importance they attached, for instance, to stocks and bonds as a basis of valuation, Mr. Martin said, "I cannot say just how much importance we attach to stocks and bonds, but it is certainly one of the elements we consider. The greatest factor to be considered is the earning capacity." Thus though the railway companies are required to make prescribed returns as to the valuation of their roads, the assessors are not required to take the statements for more than they consider them to be worth. The assessors are not required to say, on the other hand, how far they accept them, or in what particulars they depart from them. As Mr. Wingate said, in valuing railways "we do not depend on any one source of information. We depend upon anything we can get."

That earning power is the most important factor in valuation is shown from the statement of the board that when a railway is not earning dividends on its cost of construction it is assessed below the cost of construction. If on the other hand it is earning good dividends it will be assessed at more than the cost of construction. When again, the earning power is nil, the road is valued merely at what it would sell for as junk; it is no longer valued as a railway system. Thus, in answer to the question on

which of the factors they placed most importance, Mr. Wingate said "If it is a railroad that we consider above par, we place most importance on its earning capacity; if below par, we place most importance on its physical condition."

Mr. Hadley, of the Attorney-General's Department, explained that it was impossible for the assessors to recognize earning power as income, there being no income tax, but only as attaching to the physical property, which alone was assessable. He quoted Chief Justice Brewer of the United States Supreme Court, in the case in which the Indiana law was tested, who had said that "What property is worth for income and sale, it is worth for taxation." "In this decision," said Mr. Hadley, "our taxation is defined by the Supreme Court as an assessment of the tangible property that is within our State, affixing to the ties and rails that run through the different counties their proportionate share as parts of a great system. That is to say, the rails and ties that lie on the ground are worth so much, but as part of a great railway system they are worth thousands of dollars more. Then the assessment is laid on the ties and rails within the State, but to that is affixed their value as part of a great system."¹⁷

Again, in reply to the question as to how two roads would be assessed doing an equal business and having an equal income, but the one having cost twice as much to build as the other, Mr. Wingate said "If the earnings are just the same and each road is of the same value after it is built, it is not a question with us what it cost to build." This means, when reduced to its simplest terms that the chief factor in the valuation of Indiana railways is the capitalization of income. But, owing to the wording of the law and the prejudice against anything that savours of an income tax, it is officially spoken of as an ad. valorem or general property valuation. And indeed, as in other states with a similar system, the assessment of a railway corporation on its property within the State simply represents the judgment of the tax commissioners as to what the property is worth and affords no ground for any accurate discussion as to the basis of valuation. In other words, everything depends upon the composition of the State Board of Tax Commissioners.

The following table gives the assessment of the properties of representative railway companies within the State of Indiana. Of these the following operate in Ontario:

The Grand Trunk Western,
The Michigan Central,
The Wabash.

It will be noted that the whole valuation is attached to the physical property, there being no mention of earnings, franchise, or intangible values. On observing, however, the assessment per mile of the various roads, the remarkable variation in values, plainly indicates that the relative cost of construction is not a very important factor in the valuation. Obviously, as indicated by the Tax Commissioners, the valuation represents a distribution per mile of the capitalized value of the earnings of the various roads. Although this may result in the end, as seems to be generally admitted, in a fairly equal adjustment of taxation, yet it is obvious that a strict application of the ad valorem system as applied to ordinary private property would give a very different result.

It may be noted also that the following table does not give any statistics as to the taxes paid by the railroad companies. As a matter of fact the taxes vary with the different rates of the townships, counties, towns and cities through which each road passes.

¹⁷ Ont. Commission Interviews.

TABLE No. 6.

Table of main track, side track, rolling stock, and improvements on right of way of railroads in Indiana for the year 1903, as valued and equalized by the State Board of Tax Commissioners.

Names of Railroads.	Main Track.		Second Main Track.		Side Track.		Rolling Stock.	Improvements on Right of Way.	Total of Roads.	Average per mile.
	Miles.	Total.	Miles.	Total.	Miles.	Total.				
Baltimore & Ohio & Chicago.....	154.66	\$ 3,247,860	44.69	357,520	89.87	289,610	\$ 327,985	\$ 540	\$ 4,292,515	\$ 27,755
Baltimore & Ohio Southwestern.....	169.23	3,722,060	15.35	122,580	101.77	393,310	153,580	153,980	1,730,225	27,951
Louisville Division.....	60.76	1,134,440	.....	.....	1.47	25,200	121,565	16,822	1,315,985	21,546
Central Indiana.....	117.54	387,700	.....	.....	17.28	23,900	117,540	16,010	747,170	6,357
Chicago & Erie.....	159.75	3,514,700	.....	.....	84.79	294,370	359,460	82,760	4,211,310	26,360
Chicago & Eastern Illinois—										
Terre Haute Division.....	43.25	1,167,750	8.18	49,080	41.73	146,055	194,625	20,650	1,578,170	36,490
Brazil Division.....	171.68	2,290,540	.....	.....	66.58	199,740	343,160	23,950	2,797,890	16,303
Chicago, Indianapolis & Louisville.....	397.70	7,050,600	.....	.....	135.17	405,510	1,175,000	139,000	8,770,210	22,390
Chicago, Lake Shore & Eastern.....	8.44	253,200	7.47	58,050	11.22	16,880	12,660	400	341,140	40,420
Cincinnati, Indianapolis & Western—										
Cincinnati Division.....	78.26	2,034,760	.....	.....	18.53	64,855	195,650	11,370	2,306,635	29,474
Springfield Division.....	76.26	762,600	.....	.....	15.01	45,030	75,290	45,525	926,415	12,187
Cincinnati, Richmond & Fort Wayne.....	85.77	1,415,205	.....	.....	15.87	55,545	85,770	14,350	1,570,870	18,315
Cincinnati, Richmond & Muncie ..	168.40	1,178,800	.....	.....	18.96	37,920	218,670	48,700	1,735,440	7,936
Cincinnati, Richmond & Michigan ..	50.27	551,350	.....	.....	.....	.....	.....	.....	.....	.....
Cleveland, Cincinnati, Chicago & St. Louis—										
Indianapolis Division.....	168.84	1,941,660	1.03	4,120	55.42	138,550	422,100	59,005	2,565,435	15,195
St. Louis Division.....	83.84	2,034,400	2.86	22,880	69.73	278,920	298,440	111,865	3,641,505	43,434
Chicago Division.....	80.50	2,093,000	.56	4,480	55.18	220,720	281,750	27,230	2,627,180	32,636
Evansville & Indianapolis.....	153.84	941,360	3.68	29,440	59.87	359,480	538,440	145,220	5,533,940	35,972
Evansville & Terre Haute.....	134.15	1,140,275	.....	.....	28.18	56,360	67,075	4,175	1,267,885	9,451
Fort Wayne, Cincinnati & Louisville.....	145.35	3,197,700	11.75	117,500	65.82	230,370	581,400	59,745	4,186,715	28,819
Grand Trunk, Western.....	128.70	1,673,100	.....	.....	30.48	91,440	257,400	15,925	2,037,865	15,834
Henderson Bridge Co.....	80.67	2,742,280	68.23	341,150	22.11	88,440	282,345	32,850	3,487,575	43,232
Illinois Central.....	9.36	374,400	.....	.....	1.80	9,000	.....	25	383,425	40,964
Indianapolis Belt.....	37.69	301,520	.....	.....	.....	.....	75,380	7,070	396,330	10,515
Indianapolis Union.....	9.55	1,146,000	9.39	328,650	6.18	12,360	66,850	12,345	1,767,305	80,346
Indianapolis & Vincennes.....	.92	1,150,000	.92	460,000	8.21	213,460	.....	500,000	2,642,720	2,872,522
Kentucky & Indiana Bridge Co.....	35	87,500	.....	.....	16.17	40,425	233,840	10,110	1,921,255	16,482
Lake Erie & Western.....	116.92	87,500	.12	12,000	.....	.....	2,625	.....	102,250	292,143
Lake Erie & Michigan Southern.....	317.13	5,074,080	.....	.....	104.71	314,130	729,390	76,820	6,194,429	19,363
Logansport & Toledo.....	132.94	6,270,540	167.63	2,011,560	108.83	435,320	917,640	166,255	9,801,315	64,087
Louisville Bridge Co.....	94.00	846,000	.....	.....	25.15	75,450	188,000	17,840	1,127,290	11,992
Louisville & Nashville.....	.08	160,000	.....	.....	.....	.....	.....	.....	160,000	2,000,000
Michigan Central.....	28.47	455,320	1.81	10,860	22.52	67,560	71,175	139,615	744,730	26,165
Montpelier & Chicago.....	42.50	1,487,500	42.50	510,000	33.37	133,480	212,500	39,305	2,382,985	56,070
Montpelier & Chicago.....	139.26	2,367,420	.....	.....	46.72	140,160	318,150	38,060	2,893,790	20,852
New York, Chicago & St. Louis.....	151.62	4,841,020	.....	.....	40.72	162,880	377,560	28,825	5,250,875	34,769
Peoria & Eastern—Western Division.....	75.06	1,265,440	.....	.....	33.72	101,160	197,725	27,875	1,592,200	20,132
Pittsburgh, Cincinnati, Chicago & St. Louis—										
Indianapolis Division.....	71.83	3,232,350	6.84	54,720	41.01	184,545	359,150	182,980	4,081,895	55,878

Logansport Division	182.41	7,661,220	28.75	230,000	122.77	552,465	912,050	105,565	9,461,300	51,814
Effner Branch	60.19	722,280	.04	320	13.02	32,550	180,570	8,215	943,835	15,682
Louisville Division	114.41	2,402,610	4.23	33,840	44.23	199,655	572,050	39,080	3,246,615	28,378
Madison Branch	44.90	471,450	.....	.....	12.10	30,250	134,700	14,420	650,820	14,500
Cambridge Branch	63.04	661,920	.....	.....	7.67	19,175	189,120	3,640	873,855	13,860
Richmond Division	106.05	2,439,150	.....	.....	41.60	187,200	530,250	24,590	3,181,190	29,997
Pittsburgh, Fort Wayne and Chicago	152.57	8,696,496	83.72	837,200	86.24	431,200	991,705	233,235	11,189,830	73,342
Southern	118.28	1,774,200	4.14	33,120	42.37	127,110	236,560	74,605	2,245,595	18,986
Terre Haute	146.47	1,860,300	.....	.....	46.99	70,485	219,705	59,850	1,710,340	11,677
Southern Indiana	79.90	2,716,600	.....	.....	135.68	542,720	399,500	159,880	3,318,700	47,793
Terre Haute & Indianapolis	182.17	2,003,870	.....	.....	62.94	188,820	364,340	29,850	2,586,880	14,200
Toledo, St. Louis & Western	171.20	2,225,600	.....	.....	44.50	133,500	342,400	52,015	2,753,515	16,083
Wabash	166.00	4,150,000	.....	.....	90.02	360,080	415,000	118,650	5,043,780	30,383

ILLINOIS.

The general system of taxation in the State of Illinois has long been that of the ad valorem or general property tax. But in Illinois, as in several of the Western States, the operation of the system had become notoriously imperfect. In 1885, in accordance with a general resolution of the State Legislature a committee was appointed, "to amend and revise the revenue laws of the State of Illinois, and to propose and frame a revenue code, which shall be just to all classes of property and in keeping with our complicated system of business and individual and corporate avocations." This committee found the existing system of taxation to be subject to the following serious defects:

"First.—The gross inequality in the assessments of different pieces of property of the same kind, owned by different individuals in the same community, and of different kinds of property, regardless of ownership; as for instance, real estate and personalty—a large proportion of the personalty escaping all taxes.

"Second.—The arbitrary and unjust operation upon individual assessments of the system of equalization between counties by the State Board.

"Third.—The low rate of assessments.

"Fourth.—The high rate of taxation permitted by law.

"Fifth.—The inadequacy of existing methods to discover and estimate valuable interests which have grown out of the inventions and refinements of modern commerce.

"Sixth.—The want of a central and efficient supervision of the administration of the revenue laws throughout the State."¹⁸

These evils are illustrated by glaring cases of inequality and inefficiency in both the system and its operation. Systematic undervaluation was one of the chief evils in this, as in other states, and will account for the peculiar basis of assessment which even now prevails in several western States including Illinois. The property is taxed on a certain fractional percentage, say one-third, one-fourth or one-fifth, as the case may be, of its true value. In Illinois the percentage is one-fifth.

In dealing with corporations the system was similar to that already described in the case of Indiana, where the township assessors valued the real estate and the county boards the franchise or intangible values. On such a system the Illinois commission comments as follows: "There are vast aggregations of capital employed in business enterprises of such nature that their value is hard to measure by the methods applicable to other kinds of property. Several hundred million dollars are invested in railroads in this State, represented by incorporated companies. Such corporate property cannot be estimated in like manner as the acres of a farm, a herd of cattle, or a stock of goods. Much of its value is intangible, consisting in the exercise of special franchises. Our present system endeavours to separate the tangible property of the corporation from the intangible, and commits the assessment of one in part to the local assessor, the remainder of that part and the whole of the other to the State Board of Equalization, and compels the State Board to consider them dissevered.

"The separation cannot be rationally made. The two elements of value belong together. If torn apart the township assessor deals with a dead body, and the State Board with a departed spirit. Considering the difficulties of the situation, they are both to be congratulated upon the success of their efforts, a railroad company should be treated for taxation as a whole, as far at

¹⁸ Report of the Revenue Commission, Springfield, Ill., 1902, p. 11.

least as the State limits will permit; and it should be estimated in some method consistent with its nature and the extent and complexity of its affairs. So with telegraph, telephone, express and insurance companies, all of which are peculiar and not well gauged by the existing methods of valuation."¹⁹

Illinois had not, however, what alone has enabled the Indiana system to operate with fair efficiency, namely a systematic organization, under a central state board, of the whole assessment and taxation machinery of the State. The necessity for this the Illinois Commission recognizes in the following terms: "We desire to call your attention to the want of some competent body, having a general oversight of the whole business of the assessment and collection of the revenue throughout the State." They then proceeded to outline a state system on much the same plan as that now in operation in Indiana.

With reference to railroads, they recommended what was then considered a somewhat advanced position, and which turned out to be too advanced to be accepted by the representatives of the people.

"Our next measure is a radical one, the divorcement of the State Revenue from the local taxation. We saw no other way to avoid the evils of the system of equalization, and thought nothing else would do so much to correct the tendency to low assessments. To effect that purpose it was necessary to provide a sufficient State revenue from other sources than the extension of taxes upon all the assessed property within the State.

We therefore propose that the tax on railroads, telegraph, express and insurance companies be paid directly into the State Treasury, and applied only to State purposes, unless there should be a surplus; in which case, provision is made for the distribution thereof among the counties. And if there should be a deficiency it is provided that contribution may be required of the counties rateably, and extended by them on their own assessments. The interests so selected are not local in their character, but extend throughout the State, are interwoven with the traffic of the entire commonwealth, and may justly be appropriated to State use.

"Thus the needs of the State will be supplied. No State tax will be extended, except in case of emergency. Whether the assessment of a county is high or low, will be of no importance to citizens of other counties. The work of equalization will be obviated, and the Board of Equalization abolished.

"And with the removal of the selfish rivalry between counties to bear as small a portion of the burden of state taxes as possible, the tendency to low assessments will, in our opinion, be greatly diminished.

"We come now, by natural connection, to the consideration of the mode of taxing railroads, and the other classes of business and property made to contribute directly to the State Treasury.

"As to railroads, we desired to frame a provision for taxing this species of property, which should be upon the face of it manifestly fair and just, both to its owners and to the holders of other property—a rule of taxation bearing a fixed, definite and equitable relation to the rates levied on other property.

"To railroad property, the ordinary rules of valuation have little application. The true criterion of their value and the best basis for their taxation are found in their receipts.

"In Michigan, Minnesota, Wisconsin, Pennsylvania, and other states where railroads are taxed upon their receipts, and in this State in the case of the Illinois Central Railroad, the measure of taxation is the gross re-

¹⁹ Report of Revenue Commission, p. v. vi.
5 R.T.C.

ceipts. Gross receipts are taken in preference to net receipts for greater certainty, and because it is found from the reports of the railroad companies that relative proportions of net to gross receipts vary in different roads, and in different years, within narrow limits.

"After a careful study of railroad statistics, especially those appertaining to our own State, as given in the Reports of the Railroad and Warehouse Commissioners, and much attention and thought given to the subject, of the average proportion between the net and gross receipts, the expenditures and the capitalized value of railroads, we deduced this conclusion: That a rate of taxation equal to the average rate throughout the State imposed upon five times the amount of the gross receipts of an Illinois road, or upon the Illinois portion of the gross receipts of an interstate road, would be just and more flexible than an arbitrary percentage, provided, however, that such rate of taxation should not exceed five per centum of such gross receipts. We have proposed that method. It is simple; bears lighter than the present mode on the weak roads, and heavier on the prosperous ones, and takes the assessment of that great property out of the range of caprice or corruption.

"The rule adopted for estimating the share belonging to Illinois of business on railroads running into other states, by dividing the whole business of such a road by the total number of miles of its track, cannot be said to be a perfect rule, but it has the merit of certainty in its application, and while a few roads will gain some advantage under this rule, no variation from strict justice will seem to result."²⁰

The committee reported with a comprehensive bill, embodying the above with many other features for the improvement of the public revenue. This bill, however, seems to have been considered too radical to be passed, and no changes were effected for another five years. Then, by means of several amendments in 1891, 1893, 1895 and 1898, a few of the changes recommended by the Commission, and a number of other features were adopted.

The system of railroad taxation, however, has made but little advance on the old general property tax, as will be seen from the sections of the law here quoted. The Illinois law in many of its essential features is identical, not only in principle but in language, with the corresponding sections of the Indiana law. The system, however, does not appear to be so efficiently organized as in Indiana. The central features of the Illinois law are as follows:

Manner of Listing and Valuing the Property of Railroads.

"Schedules—1st May. Every person, company or corporation owning, operating or constructing a railroad in this State shall return sworn lists or schedules of the taxable property of such railroad, as hereinafter provided. Such property shall be listed and assessed with reference to the amount, kind and value, on the first day of May of the year in which it is listed

"The Time of Filing Schedule—Form of Same. They shall, in the month of May of the year eighteen hundred and seventy-three and at the same time in each year thereafter, when required, make out and file with the county clerks of the respective counties in which the railroad may be located, a statement or schedule showing the property held for right of way, and the length of the main and all side and second tracks and turnouts in such county, and in each city, town and village in the county, through or into which the road may run, and describing each tract of land, other than a city, town or village lot, through which the road may run, in accordance with the United States surveys, giving the width and length of the strip of land held in each tract, and the number of acres thereof. They shall also

²⁰ Report of Commission, pp. viii-xi.

state the value of improvements and stations located on the right of way. New companies shall make such statement in May next after the location of their roads. When such statement shall have been once made, it shall not be necessary to report the description as hereinbefore required, unless directed so to do by the county board, but the company shall, during the month of May, annually report the value of such property by the description set forth in the next section of this Act, and note all additions or changes in such right of way, as shall have occurred.

“Railroad Track—Description of. Such right of way, including the superstructure of main, side or second track and turnouts, and the stations and improvements of the railroad company on such right of way, shall be held to be real estate for the purposes of taxation, and denominated ‘railroad track,’ and shall be so listed and valued; and shall be described in the assessment thereof as a strip of land extending on each side of such railroad track, and embracing same, together with all the stations and improvements thereon, commencing at a point where such railroad track crosses the boundary line in entering the county, city, town or village, and extending to a point where such track crosses the boundary line leaving such county, city, town or village, or to the point of termination in the same, as the case may be, containing.....acres, more or less (inserting name of county, township, city, town or village, boundary line of same, and number of acres, and length in feet,) and when advertised or sold for taxes, no other description shall be necessary.

“How ‘Railroad Track’ Listed and Assessed. The value of the ‘railroad track’ shall be listed and taxed in the several counties, towns, villages, districts and cities, in the proportion that the length of the main track in such county, town, village, district or city bears to the whole length of the road in this State, except the value of the side or second track, and all turnouts, and all station houses, depots, machine shops or other buildings belonging to the road, which shall be taxed in the county, town, village, district or city, in which the same is located.

“‘Rolling Stock’—Schedule. The movable property belonging to a railroad company shall be held to be personal property and denominated, for the purpose of taxation, ‘rolling stock.’ Every person, company or corporation owning, constructing or operating a railroad in this State, shall, in the month of May, annually, return a list or schedule, which shall contain a correct detailed inventory of all the rolling stock belonging to such company, and which shall distinctly set forth the number of locomotives of all classes, passenger cars of all classes, sleeping and dining cars, express cars, baggage cars, house cars, cattle cars, coal cars, platform cars, wrecking cars, pay cars, hand cars, and all other kinds of cars.

“How ‘Rolling Stock’ Listed and Taxed. The rolling stock shall be listed and taxed in the several counties, towns, villages, districts and cities, in the proportion that the length of the main track, used or operated in such county, town, village, district or city bears to the whole length of the road used or operated by such person, company or corporation, whether owned or leased by him or them in whole or part. Said list or schedule shall set forth the number of miles of main track on which said rolling stock is used in the State of Illinois, and the number of miles of main track on which said rolling stock is used elsewhere.

“Personal and Real Estate other than ‘Rolling Stock’ and ‘Railroad Track’—Where Listed. The tools and materials for repairs, and other personal property of any railroad, except ‘rolling stock’ shall be listed and assessed in the county, town, village, district or city, wherever the same may be the first day of May. All real estate, including the stations and other

buildings and structures thereon, other than that denominated 'railroad track,' belonging to any railroad, shall be listed as lands or lots, as the case may be, in the county, town, village, district or city where the same are located.

"How Such Other Personal and Real Property To Be Assessed. The county clerk shall return to the assessor of the town or district, as the case may require, a copy of the schedule or list of the real estate (other than 'railroad track') and of the personal property (except 'rolling stock') pertaining to the railroad; and such real and personal property shall be assessed by the assessor. Such property shall be treated in all respects in regard to assessment and equalization, the same as other similar property belonging to individuals, except that it shall be treated as property belonging to railroads, under the terms 'lands', 'lots' and personal property.

"Railroad Returns to Auditor. At the same time that the lists or schedules are hereinbefore required to be returned to the county clerks, the person, company or corporation, running, operating or constructing any railroad in this State, shall return to the Auditor of Public Accounts sworn statements or schedules as follows:

"First—Of the property denominated 'railroad track', giving the length of the main and side or second tracks and turnouts, and showing the proportions in each county, and the total in the State.

"Second—The 'rolling stock,' giving the length of the main track in each county, the total in this State, and the entire length of the road.

"Third—Showing the number of ties in track per mile, the weight of iron or steel per yard, used in main and side tracks; what joints or chairs are used in track; the ballasting of road, whether gravel or dirt; the number and quality of buildings or other structures on 'railroad track,' the length of time iron in track has been used, and the length of time the road has been built.

"Fourth—A statement or schedule showing:

1. The amount of capital stock authorized, and the number of shares into which such capital stock is divided.
2. The amount of capital stock paid up.
3. The market value, or if no market value, then the actual value of the shares of stock.
4. The total amount of indebtedness, except for current expenses for operating the road.
5. The total listed valuation of all tangible property in this State.

"Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the Auditor of Public Accounts.

"Schedules—Board to Assess Railroad Property. The Auditor shall annually, on the meeting of the State Board of Equalization, lay before said board the statements and schedules herein required to be returned to him, and said board shall assess such property in the manner hereinbefore provided.

"State Board of Equalization to Assess 'Railroad Track' and 'Rolling Stock.' Said board shall also assess the railroad property denominated in the said Act as 'Railroad Track' and 'Rolling Stock'; and said board is hereby given the power and authority, by committee or otherwise, to examine persons and papers. The amount so determined and assessed shall be certified by the Auditor to the County Clerks of the proper counties. The County Clerk shall, in like manner distribute the value, so certified to him by the Auditor, to the county and to the several towns, districts, villages and cities in his county entitled to a proportionate value of such railroad track and rolling stock. And said clerk shall extend taxes against such values,

the same as against other property in such towns, districts, villages and cities.

"Capital Stock of Railroads and Telegraphs. The aggregate amount of capital stock of railroad or telegraph companies assessed by said board shall be distributed proportionately by said board to the several counties, in like manner that the property of railroads denominated railroad track is distributed. The amount so determined shall be certified by the auditor and county clerks in the proper counties. The county clerk shall, in like manner distribute the value, so certified to him by the auditor, to the county and to the several towns, districts, villages and cities in his county entitled to a proportionate value of such capital stock. And said clerk shall extend taxes against such values the same as against other property in such towns, districts, villages and cities."²¹

Now, in operation, this means that the permanent right of way of a railway company with its main tracks, single or double, its sidings and the station houses and other structures situated on the right of way, also all the rolling stock of the company and its capital stock are to be assessed by the State Board of Equalization and the value distributed to the several local bodies on a mileage basis. The remaining real and personal property of the railroad is to be assessed in the locality where it exists and is not distributed throughout the municipalities on a mileage basis.

One railroad company, the Illinois Central, owing to an arrangement incorporated in its original charter granted in 1851, is treated in a special manner in the matter of taxation. "In consideration of the grants, privileges and franchises herein conferred upon said company for the purposes aforesaid, the said company shall, on the first Mondays of December and June in each year, pay in to the Treasurer of the State of Illinois five percentum of the gross or total proceeds, receipts or income derived from said roads or branches for the six months then next preceding.....The lands selected under said Act of Congress, and hereby authorized to be conveyed, shall be exempt from all taxation under the laws of this State until sold and conveyed by said corporation or trustees, and the other stock, property and effects of said company shall be in like manner exempt from taxation for the term of six years from the passage of this Act. After the expiration of six years, the stock, property and assets belonging to said company shall be listed by the President, Secretary or other officer, with the Auditor of State, and an annual tax for State purposes shall be assessed by the Auditor upon all the property and assets of every name, kind and description belonging to said corporation. Whenever the taxes levied for State purposes shall exceed three-fourths of one per centum per annum, such excess shall be deducted from the gross proceeds or income herein recorded to be paid by said corporation to the State, and the said corporation is hereby exempted from all taxation of every kind, except as herein provided for. Provided, in case the five per cent. provided to be paid in to the State Treasury, and the State taxes to be paid by the corporation, do not amount to seven per cent of the gross or total proceeds, receipts or income, then the said company shall pay in to the State Treasury the difference, so as to make the whole amount paid equal at least to seven per cent. of the gross receipts of said corporation."²²

The result is that the Illinois Central simply pays to the State seven per cent. on its gross receipts. This is partly a tax and partly a return or rental for large land grants, franchises and privileges of location originally bestowed upon it.

²¹ Revenue Laws of the State of Illinois, 1898, pp. 23-26, 39.

²² Revenue Laws of the State of Illinois, 1898, p. 112.

Street railways, when incorporated under the same laws as ordinary steam railways, are treated in the same manner in the matter of taxation. In practice this applies chiefly to interurban electric railways and elevated railways in Chicago.

Other street railways, express companies, telegraph and telephone companies are treated in the following manner:

"The personal property of street railroad, plank road, gravel road, turnpike or bridge companies, shall be listed and assessed in the county, town, district, village or city where the principal place of business is located.

"The personal property of express or transportation companies, shall be listed and assessed in the county, town, district, village or city where the same is usually kept.

"Bridges, express, ferry, gravel road, gas, insurance, mining, plank road, stage, steamboat, street railroad, transportation, turnpike and all other companies and associations incorporated under the laws of this State, other than banks organized under any special or general law of this State, and the corporations required to be assessed by the local assessors, as hereinbefore provided, shall, in addition to the other property required by this Act to be listed, make out and deliver to the assessor a sworn statement of the amount of its capital stock setting forth particularly:

"First: The name and location of the company or association.

"Second: The amount of capital stock authorized, and the number of shares into which such capital stock is divided.

"Third: The amount of capital stock paid up.

"Fourth: The market value, or if no market value, then the actual value of the shares of stock.

"Fifth: The total amount of all indebtedness except the indebtedness for current expenses, excluding from such expenses the amount paid for the purchase or improvement of property.

"Sixth: The assessed valuation of all its tangible property.

"The Auditor shall, annually, on the meeting of the State Board of Equalization, lay before said board the schedules and statements herein required to be returned to him; and said board shall value and assess the capital stock of such companies or associations in the manner provided in this Act.

"Every person owning or using a franchise granted by any law of this State, shall, in addition to his other property, list the same as personal property, giving the total value thereof.

"Any person, company or corporation, using or operating a telegraph line in this State shall, annually, in the month of May, return to the Auditor of Public Accounts a schedule or statement as follows:

"First: The amount of capital stock authorized and the number of shares into which such capital stock is divided.

"Second: The amount of capital stock paid up.

"Third: The market value, or, if no market value, then the actual value of the shares of stock.

"Fourth: The total amount of all indebtedness, except current expenses for operating the line.

"Fifth: The length of the line operated in each county, and the total in the State.

"Sixth: The total assessed valuation of all its tangible property in this State.

"The Auditor shall annually, on the meeting of the State Board of Equalization, lay before said board the statement or schedule herein required to be returned to him; and said board shall assess the capital stock of such

telegraph company in the manner hereinafter provided. The tax charged on the capital stock of telegraph companies shall be placed in the hands of county collectors, in a book provided for that purpose, the same as is required for railroad property, and may be included in same book of railroad property.

"The office furniture and other personal property of telegraph companies shall be listed and assessed in the county, town, district, village or city where the same is used or kept."²³

As usual, the Ontario Commission obtained much valuable information through interviews with those who are connected with the practical operation of the system of assessment and taxation. At Springfield, the Commission had a couple of conferences with Mr. James S. McCullough, Chairman, and Mr. W. H. Eubanks, Secretary of the State Board of Equalization.

This board is similar in most respects to the State Board of Tax Commissioners of other States. It is, however, quite a large board, being made up of a representative from each Congressional district in the State. The members of the board are elected every four years. It consists at present of twenty-two members, to be increased to twenty-five at the next election. The board is divided for practical operation into a number of special committees. One of these, consisting of seven members, is a committee on railroad assessment, which also deals with the capital stock of corporations other than railroads but not with their real estate.

In the case of railroads, as already indicated, the State Board assesses the right of way and all the buildings and improvements upon it, as also the rolling stock and the capital stock, and distributes the assessment to the different municipalities, for the most part on a mileage basis. But in the case of depots, though they are assessed by the board, or rather equalized by the board upon valuations by local assessors, their value is not distributed over the whole line. They are taxed entirely within the municipalities in which they are situated and a separate return is made for them. Again, though provision is made for taxing the capital stock of railway companies where it exceeds the value of the tangible property, yet, as in Indiana, to avoid additional assessment it is so arranged that the value of the capital stock is supposed to be included in the assessment of the tangible property. Hence, in the case of railroads, there is actually no assessment on capital stock as a separate item. As the Secretary of the board put it: "After the Committee on the assessment of Railroad Property values the tangible property of the company for purposes of assessment and fixes the assessment value, then they ascertain the value of the capital stock and franchise, and if in that valuation it is found that the value of the capital stock and franchise exceeds the tangible property, it is made their duty under the law to assess the balance also as capital stock. There are one or two companies in that position. However, they usually make a practice—and this board allows of it—of trying to value the tangible property up to the value of the capital stock and franchise. There are two or three roads where the tangible property amounts to very little, but the capital stock to quite a sum, for instance the Chicago Terminal Transfer, and several elevated roads all in Chicago. These are assessed with capital stock in addition to their tangible property."²⁴

The assessment and taxation machinery of Illinois is much the same as that of Indiana. The County Board of Equalization is, for all ordinary property, the central feature in the system. With the County Treasurer the

²³ Revenue Laws of the State of Illinois, 1898. pp. 14, 15, 21, 26, 27.

²⁴ Ont. Com. Interviews.

Board looks after the appointment and supervision of the township assessors who make their returns to it, and by it they are equalized. The County Board in turn reports to the State Board, which has the power of revising and equalizing the work of the county and township assessors. When all the property, including that of the railroads, is assessed and distributed to the various ultimate municipal units, each taxing power, the township, town, city, county and state, levies its independent rate upon the property, as in Indiana. Thus, though a township through which no railroad runs gets no share of the railroad tax as a township, yet as part of the county it gets the benefit of the county tax on railroads, and as part of the State it gets the benefit of the state tax on railroads.

As Michigan and Wisconsin afford instances of the zeal and vigor of newly adopted institutions, and Indiana the more sober efficiency of a Board which recognizes the necessary limitations under which it is operating, so Illinois illustrates the same system of taxation as adopted in these other states, deep in the ruts which years of usage have worn for it, and from which it appears almost impossible for it to escape. The Secretary of the Illinois Board pictures the situation for us in a few words: "After the railway companies hand in their statements, showing values, etc., the board is not obliged to accept their valuations, but where they think it necessary they have expert examinations made. Of late years there has been nothing like expert examination of the values, because these were established, the system having been in operation some twenty-five years, ever since the adoption of the Revenue Law of 1882. Of course there have been some amendments to the law but the railroad assessment part of it has been amended very little."²⁵

The Illinois Board believes that each road should be valued as a whole. "The assessor must take into consideration the whole system in its entirety. That is to say, it would be impossible for the Board of Assessment in Chicago to properly assess that section without having before them the value of the whole system. All data that can be obtained as to the actual value of the entire road must be considered, one source being the traffic, its extent and the road's facilities for handling it. In connection with this the earnings of the road would naturally be considered; then after finding the value of the entire road, the average value per mile should be ascertained and should be an element in determining the value for taxation purposes."²⁶

In order to understand the system of taxation and assessment in Illinois, it is necessary to keep in mind the fact, already touched on, that though, of late years, both private and corporate property are supposed to be valued at their full market rates, yet only one-fifth of the value is taken as the actual assessment upon which taxes are levied. This is due to the fact that for years past the assessors of each district in their efforts to keep down their proportion of the burden of State taxation placed a lower and lower valuation on the property within their limits. This necessitated a corresponding increase in the rates of taxation. When, therefore, a system of central equalization was adopted and a return to a full valuation determined upon, it was found to be easier to take a fraction of the full valuation as the basis of assessment than to readjust the various rates of taxation. Besides, the central board has no jurisdiction over rates but only over assessment. Hence, the proportion of one-fifth of the full value has been adopted. The rate of taxation for State purposes was last year fifty-two cents on a hundred dollars of assessed value or on five hundred dollars of full value, so that the rate was practically one mill on the dollar of full value.

²⁵ Ont. Com. Interviews.

²⁶ Ont. Com. Interviews.

This will serve to explain many apparent anomalies in the Illinois statistics of assessment. From a return of the total local assessment of property throughout the State for each of the years from 1873 to 1898, we have the following interesting result, taking every fifth year of the series:

Year.	Total Assessment of the State.
1873	\$1,210,108,863
1878	818,987,409
1883	756,422,291
1888	709,304,506
1893.....	760,837,855
1898	693,443,706

As everyone knows, the value of property in Illinois, including as it does a city like Chicago, had enormously increased during that period. It was recognized that the assessment in 1898 should have been at least five times the amount here given.

Much the same condition of affairs prevailed throughout the Western States, so that when values were once more brought back to something like a normal basis, the rates of taxation remaining unchanged, various fractions of the full valuation had to be taken as the basis of assessment. Thus in Iowa the proportion is one-fourth, in Wyoming one-sixth, in Nebraska one-fifth. This treatment of values applies to railroads as to all other property.

The fact that in Illinois no special provision is made for the taxation of sleeping car, fast freight, or car loaning companies is explained by the Secretary as due to the fact that "these are assessed, if incorporated in the State. Some of the companies report their cars. The Pullman Company in this State are taxed entirely on their capital stock; they are incorporated under the laws of the State, and incorporations of that class are required to be assessed on capital stock. They come under the General Corporations section of the Act."²⁸

As to the possibility of double taxation both within and without the State, in the case of companies operating in several States, Mr. Eubanks stated that, "This is not the case because the tangible property of the company is deducted from the capital stock. We take the sworn return of the company, and use this as a basis to decide how much is assessed outside the State. The same rule, however, does not apply to Swift's, Armours, etc.; under the law the board cannot assess these people. They are supposed to be assessed by the local assessor. If the local assessor can locate their cars at any one point he can assess them; otherwise he cannot. This is the lame point in the law."²⁹

In reply to a question as to whether the railways had added anything to their rates on account of additional taxation, Mr. Eubanks replied that there was no reason to think so. In Illinois, however, in virtue of a special law, railway rates were subject to control, so far at least as purely State business was concerned. This is under the jurisdiction of the Railway and Warehouse Commission.

The following table gives particulars of the assessment of representative railways, including several Chicago elevated roads, operating in the State of Illinois. The second table gives the total amount of taxation paid by each company to the township, town or city, county and state authorities during several years.

The railroads in this list which operate in Ontario are the Grand Trunk Western, the Michigan Central and the Wabash.

²⁷ Proceedings of the Illinois State Board of Equalization, 1898, appendix p. xlvii.

²⁸ Ont. Com. Interviews.

²⁹ Ont. Com. Interviews.

Table showing the Assessment of Railroad Property by the State Board of Equalization for the year A.D. 1903.

	Length of main track in Illinois.	Main track, full value.	Aggregate assessment by the State Board of Equalization.				Total.		Total Assessment per mile.
			2nd Main Track, full value.	Side or Turnout Track, full value.	Buildings on right of way, full value.	Rolling Stock, full value.	Full value.	Assessed value.	
	Miles.	\$	\$	\$	\$	\$	\$	\$	
Atchison, Topeka & Santa Fe.....	284	8,953,215	150,585	1,790,720	625,210	812,505	188,770	37,754	8,699
Baltimore & Ohio Southwestern.....	371	7,148,045		1,252,280	200,175	2,997,200	11,597,700	2,819,540	6,247
Belt Railway Co. of Chicago.....	20	1,873,860	292,870	711,805	48,370	608,750	3,531,155	706,231	34,297
Calumet, Vincennes & Chicago.....	259	3,950,145		528,220	126,070	620,950	5,225,385	1,045,077	4,031
Chicago & Alton.....	632	21,808,525	1,471,475	2,855,460	1,093,685	4,646,685	31,875,745	6,375,149	10,085
Chicago, Burlington & Quincy.....	818	28,938,365	2,742,270	5,372,820	833,215	3,439,315	39,325,985	7,865,197	9,270
Chicago & Eastern Illinois.....	299	6,591,530	1,666,195	1,883,630	306,030	5,031,430	15,478,785	3,065,757	10,332
Chicago Great Western.....	148	4,440,740		583,975	116,700	807,620	4,548,135	1,189,627	8,037
Chicago, Madison & Northern.....	139	3,498,880	91,545	551,375	145,505	275,000	4,562,225	912,451	6,520
Chicago, Milwaukee & St. Paul.....	346	7,881,605	2,614,700	2,838,185	428,920	1,538,225	15,299,635	3,059,927	8,829
Chicago & Northwestern.....	466	14,716,885	3,324,080	4,668,275	1,594,495	2,979,865	27,383,600	5,476,720	11,741
Chicago, Rock Island & Pacific.....	276	4,141,470		596,225	201,300	2,528,325	7,467,320	1,483,464	5,409
Chicago & Western Indiana.....	234	9,376,340	2,807,010	3,055,370	1,565,000	802,800	17,606,525	3,521,305	15,022
Cleveland, Cincinnati, Chicago & St. Louis.....	186	5,407,770	937,060	1,123,570	150,420	1,881,310	10,376,050	2,075,210	9,184
Cleveland, Cincinnati, Chicago & St. Louis.....	147	3,860,295		1,446,305	264,405	1,367,055	7,114,069	1,428,818	9,719
Elgin, Joliet & Eastern.....	25	2,344,805	516,780	426,430	108,495	198,630	3,595,140	779,028	27,828
Grand Trunk Western.....	112	1,460,040		139,375	36,845	138,100	1,794,360	338,872	3,195
Jacksonville & St. Louis.....	180	1,895,860		137,555	151,940	311,000	2,496,655	499,331	3,819
Kankakee & Southwestern.....	118	2,016,165		230,655	19,015	536,590	2,802,425	560,455	4,726
Lake Erie & Western.....	176	5,438,475		413,860	138,300	896,245	4,886,880	977,376	5,543
Lincoln & St. Louis.....	17	5,986,565	859,470	130,315	337,500	703,150	7,616,990	1,523,398	*88,624
Metropolitan West Side Elevated.....	6	1,182,520	136,850	586,180	232,875	276,540	2,474,965	494,933	72,312
Metropolitan Central.....	159	3,353,870	1,177,965	36,475	137,250	819,225	4,951,520	996,304	*12,162
Mobile & Ohio.....	8	2,223,950		316,710	26,775	366,000	3,250,790	1,060,168	5,688
*Northwestern Elevated.....	126	2,087,365		583,740	26,775	586,225	3,628,575	723,15	5,688
Peoria & Decatur.....	127	2,468,330		933,320	689,455	320,995	7,106,875	1,331,774	50,092
Peoria & Eastern.....	13	4,083,580	839,715	513,145	1,176,930	440,075	7,554,865	1,531,570	111,060
Pittsburg, Cincinnati, Chicago & St. Louis.....	119	3,575,940	470,765	1,113,110	167,000	419,725	5,954,125	919,625	7,714
Rock Island & Peoria.....	215	4,840,365		824,930	112,690	1,200,900	6,978,885	1,398,777	6,488
St. Louis, Alton & Terre Haute.....	285	5,849,810		890,675	188,330	798,625	7,657,440	1,531,488	5,367
St. Louis, Rock Island & Chicago.....	119	1,788,940		150,420	52,890	2,134,555	4,830,911	843,169	5,447
St. Louis Valley.....	154	2,747,250		668,440	56,760	743,195	4,215,845	911,871	*106,919
*South Side Elevated.....	8	3,198,225	426,430	31,250	158,000	743,195	4,215,845	911,871	*106,919
Terre Haute & Indianapolis.....	138	5,141,420	1,954,235	844,955	159,055	1,481,490	7,627,330	1,525,466	9,643
Terre Haute & Peoria.....	145	1,959,235		184,055	40,250	331,800	2,545,340	509,088	3,507
Toledo, Peoria & Western.....	229	4,710,150		399,385	116,050	1,035,000	6,260,585	1,232,117	5,450
Toledo, St. Louis & Western.....	179	3,589,795		406,005	83,250	823,510	4,902,560	980,512	5,463
Wabash.....	668	17,324,180	226,465	2,582,725	850,175	3,575,905	24,559,450	4,911,890	7,343
Grand aggregate.....	10,672	282,335,275	24,558,495	59,763,430	19,137,125	55,811,795	441,606,130	88,321,224	8,276

* Assessed on capital stock.

(Proceedings of the Illinois State Board of Equalization, Session of 1903, p. 172.)

STEAM RAILROADS.

TABLE XV.—Comparative Statement of Taxes paid in Illinois—Ten years—1893-1894, with last three consecutive years.

1	2	3	4	5
Name of Company.	1893	1901	1902	1903
	\$ c.	\$ c.	\$ c.	\$ c.
Atchison, T. & S. Fe R'y Co. (The).....	99,436 16	126,385 71	110,124 64	105,996 65
Baltimore & Ohio S.-W. R. R. Co.				95,152 20
Belt R'y Co. of Chicago (The)	48,000 00	62,794 46	44,555 54	39,500 00
Chicago Great Western R'y Co	30,045 77	81,604 00	83,042 44	71,183 56
Chicago & Alton R. R. Co. (The)	208,679 80	266,422 41	247,944 94	268,681 03
Chicago & Eastern Illinois	94,411 51	144,759 90	144,054 50	134,859 19
Chicago & Northwestern R'y Co	246,782 10	289,914 79	271,214 90	308,202 03
Chicago & W. Indiana R. R. Co		120,330 43	79,569 01	73,071 46
Chicago, Burlington & Q. R'y Co	367,776 21	511,333 08	489,652 60	
Chicago, Milwaukee & St. P. Co	116,833 91	146,226 67	148,854 56	133,824 89
Chicago, Peo. & St. L. R'y Co. of Ill		53,701 32	53,979 53	52,270 27
Chicago, Rock Island & P. R'y Co.	176,246 53	195,194 00	168,104 18	207,881 04
Cleve., Cincin., Chi. & St. L. R'y Co.....	132,806 86	127,448 74	132,063 65	128,457 98
Elgin, Joliet & Eastern R'y Co	30,006 09	55,538 41	54,107 61	55,094 65
Grand Trunk Western R'y Co.		33,595 87	49,409 93	41,189 32
Ind., Ill. & Iowa R. R. Co. (The).....	10,550 09	21,820 42	24,450 81	21,352 19
Jacksonville & St. Louis R'y Co.		14,940 58	14,095 24	14,334 36
Lake Erie & Western R. R. Co	23,041 19	29,932 54	27,950 03	26,113 33
Louisville & Nashville R. R. Co.		50,186 72	51,280 14	47,549 95
Michigan Central R. R. Co	32,079 28	45,119 38	39,488 23	39,836 48
Mobile & Ohio R. R. Co. (The).....	31,156 32	42,447 91	42,728 70	41,655 55
Pitts., Cin., Chi. & St. L. R'y Co	91,428 84	105,804 39	68,667 98	81,062 29
Southern R'y Co.		16,515 70	34,101 60	32,628 33
St. L., Van. & T. H. R. R. Co. (The)	59,217 41	44,043 69	66,903 21	66,924 30
Terre Haute & Peoria R. R. Co	17,354 77	21,871 89	20,002 06	20,411 00
Toledo, Peoria & Western R'y Co	36,555 49	48,522 29	45,775 43	45,009 29
Toledo, St. L. & Western R. R. Co	29,692 90	38,430 41	37,516 34	42,018 13
Wabash R. R. Co.	192,321 66	217,865 69	239,555 18	221,416 13
Total	3,733,304 80	4,725,332 37	4,662,110 46	4,726,257 68

(Annual Report of the Railroad and Warehouse Commission of the State of Illinois, 1904, p.p. 198-200.)

WISCONSIN.

Like Michigan, and in many respects in imitation of it, the State of Wisconsin has lately changed its system of railroad taxation. The reasons for the change and the conditions attending the transition are of much interest in connection with the subject of taxation in general and of railroad taxation in particular.

The first stage of railroad development in Wisconsin was, like that of Canada, as several of the other States, characterised by liberal subsidies. These usually took the form of land grants on the part of the Federal Government, exemption from taxation on the part of the State and money grants, in the shape of subscriptions to stock, on the part of the municipalities. When taxes were levied upon railroad property, they were, as a rule, very light. It is estimated that in the State of Wisconsin railway lands still remain unsold to the extent of 950,000 acres, valued at \$5,000,000. The stock in the roads taken by the municipalities, and amounting in 1872, to \$5,470,954, generally proved worthless, and has been, for the most part, completely wiped out by reorganizations.

When the railroads were once firmly established, they were gradually subjected to normal taxation. In the matter of taxation, up to 1854, the municipalities treated the railways as all other property. "In that year railways and plank toll roads were taken out of the general property tax and in lieu thereof a specific tax imposed on their annual gross earnings."³⁰ The tax was fixed at the rate of one per cent. per annum. In 1862 the rate was increased to three per cent. and in 1874, it was raised to four per cent. on all roads. In 1876 the roads were, for the first time, divided into classes according to their annual gross earnings per mile. This law established four classes of railroads. The law as it stands at present was passed in 1897 and introduced six classes instead of four. This is still the basis of taxation, for though the law has been changed in 1903, the new system does not come into full operation, as far as collecting revenue is concerned, until 1905. Owing to the fundamental objection to an income tax throughout the United States, the tax on gross earnings has never been frankly treated as an income tax. In Wisconsin and some other states it is termed a license tax, which is graded, however, according to gross income per mile of line, and upon this a percentage tax levied. This tax has been in lieu of all other forms of taxation, State or local, except certain special assessments for local improvements in cities or towns. All lands or other property owned by railroad companies, but not used in connection with the ordinary business of transportation, was treated as ordinary property and assessed and taxed under the general property tax, which is the normal system of the State. The proceeds of the taxation of railroads have been used for State purposes, no portion being distributed to the municipalities.

Under the license or gross earnings system there was no specific assessment of property. Each railroad company was simply required to furnish to the State treasurer a sworn return of the gross earnings of the railroad for the previous year, and of the number of miles operated by the railroad within the State, and the gross earnings per mile. At the time of making the returns each railroad was required to apply for a license to operate the railroad during the following year and to pay the following license fees.

"1. Four per centum of the gross earnings of all railroads, except those operated on pile and pontoon or pontoon bridges, whose gross earnings equal or exceed three thousand dollars per mile per annum of operated railroad.

"2. Three and one-half per centum of the gross earnings of all railroads, except those operated on pile and pontoon, or pontoon bridges, whose gross earnings equal or exceed two thousand five hundred dollars and are less than three thousand dollars per mile per annum of operated railroad.

"3. Three per centum of the gross earnings of all railroads, except those operated on pile and pontoon, or pontoon bridges, whose gross earnings equal or exceed two thousand dollars, and are less than two thousand five hundred dollars per mile per annum of operated railroad.

"4. Five dollars per mile of all operated railroads, except those operated on pile and pontoon, or pontoon bridges, whose gross earnings equal one thousand five hundred dollars per mile per annum and are less than two thousand dollars per mile per annum of operated railroad, and in addition two and one-half per centum of their gross earnings in excess of one thousand five hundred dollars per mile per annum and under two thousand dollars per mile per annum.

"5. Five dollars per mile of operated railroad by all companies whose gross earnings are less than fifteen hundred dollars per mile per annum.

³⁰ Report of Wisconsin State Tax Commission, 1903, p. 163.

"6. Two per centum of the gross earnings of all railroads which are operated on pile and pontoon, or pontoon bridges, which gross earnings shall be returned as to such parts thereof as are within the state."

Some years ago the people of Wisconsin, in common with those of several Western states, became imbued with the idea, the grounds for which have been given in the case of Michigan, that the railroads were not contributing their just share of taxation, and that this was largely due to the fact that they were taxed upon a different basis from that of other property. It was held, therefore, that the only just system of taxation was one in which all property in the State would be taxed on exactly the same basis, and, consequently, in which all property would be assessed in the same way and at its full cash value. As a purely theoretic statement there need be little difficulty over this proposition once an income tax is ruled out. But the practical question remained—can such a system be realized for all forms of property under actual conditions? In the attempt to answer this question, and "in order to secure improvement in the system and the collection of taxation in this state," there was appointed, in 1898, a State Tax Commission of three persons. As Judge Gilson, the President of the present Commission, explained to the Ontario Commission, "This board was appointed mainly for investigation into different systems and to make recommendations to the Legislature." They spent several years in investigation, reporting in 1899, again in 1901 and finally in 1903. The first Commission had no administrative function, but in 1899 the Commission was continued for ten years and was made a State Board of Assessment for equalizing the assessment of the different properties in the State. By the law of 1901 the Commission took the place, for all ordinary purposes, of the former State Board of Assessment, composed of the Secretary of State, the State Treasurer and the Attorney General. Under the new law of 1903 for the taxation of railways, the Commission became a State Board for assessing railways.

The assessment of the entire property of railways by a State Board on the ad valorem basis requires that the same Board shall determine the value of all taxable property in the State, so that the railways may pay the same state tax as other properties. The way in which this will work out under the new act was explained by Judge Gilson in these terms. "We are required under the Act to ascertain the value of all the general property in the State, i.e., all property owned by private individuals, corporations, mercantile firms, etc., in fact all property not owned by railway companies. We then take the total tax levied in the State, county and local, and having ascertained the true cash value of all property in the State, we divide the total taxes, say levied in 1903, by the total value which we find. The value which we put on the general property of the State last year was \$1,753,000,000; the taxes levied in 1902 amounted to \$20,163,000, which, divided by the total value of all the property, would give a rate of 1.158 per cent. and we required the railways to pay the same rate."³¹

In 1900 the State Tax Commission had appointed a hearing on railroad taxation, when the chief railroads in the State were heard through representatives. A further investigation was conducted during the session of 1901, over the head of two bills drafted by the Commission, "one to reclassify and increase the percentage on gross earnings, and the second to abolish the license fee method and provide for the ad valorem taxation by a State Board." Both bills were opposed by the railroad companies and were defeated in the Assembly.

In their discussion of the gross earnings system versus the ad valorem system, the Wisconsin Commission considered the former an easy means of

³¹ Ont. Com. Interviews.

taxing railroads, but regarded it as leading to inequality as between railroads, and as compared with other property.

It took from the railroads in proportion to their ability to pay and thus adjusted the taxes to their earnings when that was not done for other property. It had been held by several judges that the license fee system was in reality unconstitutional, as not securing a uniform system of taxation to all kinds of property, but to avoid disturbing the financial basis of the State the actual law had been upheld in the decisions given.

The desire for a literal uniformity, whatever might be its practical effects, is shown in the report of the Commission, and was evidently the chief influence, as in Michigan, in favour of the change to a system, which would assess railroads on the same basis as all forms of private property, that is, on the basis of a general property tax. Acting on this principle, the Board reached the conclusion, practically the same as that of Michigan, that "The property of railroad companies should be valued by a State Board composed of appointed officers of requisite knowledge and approved integrity, with power to secure the evidence necessary to a correct judgment of the value of each railroad operated in the State. The law constituting the Board and prescribing its duties should be carefully framed with proper limitations on the power of the Board, but not attempting to specify too minutely the method of arriving at values so as to leave no room for the exercise of judgment. All the elements going to make up values cannot be definitely embraced in a written law without so circumscribing the powers of the Board as to make their duties largely clerical.

"The Board should also be empowered to value the property of the State for the levy of a State tax, and be required to assess the general property of the State at the market value. This should be obligatory, to the end that all taxable property may be brought to an equal standard of valuation with that of railroads or other property assessed by the Board.

"The railways should be granted an opportunity not only to be heard on the assessment of their property, but also of all property of the State, so that entire equality may be secured."³²

When it comes to the actual valuation of the railroads, however, the Commission begins to recognize the difficulties which confront it.

"The magnitude of railroad interests renders the valuation of such property more difficult than the appraisement of property simpler in character and use. There are, however, some rules approved by courts, economists and financiers as the basis for the valuation of railroad property, and some or all of them may be applied to ascertain the value of such property in the State.

"The principal elements usually examined and considered in the endeavor to ascertain the value of railroad property are:

Cost of road and equipment.

Par value of capital stock and funded debt.

Franchises.

Gross and net earnings.

Market value of capital stock and funded debt.

"There are subdivisions of these items, but on the whole the above division will comprise the chief objects for consideration in estimating the value of railroad property.

"The items are not wholly independent of each other. Nor are they all entitled to the same weight as evidence of value. The Commission is not committed to any particular theory in arriving at value and does not proceed on the assumption that the market value of stocks and bonds is the absolute cri-

³² Report of 1903, p. 182.

terion of value. The market value is evidence to be considered with other items in forming judgment of the value of the property of railways.

"The earning power is a very important element for consideration, for it is the financial rule in the markets of this country, and all over the world, that the worth of property is determined by what it will produce in income. If the permanency of the income is assured from past results in operation, the risk of investment is less and the value more stable. The earnings in the opinion of financiers is the final test of the value of corporate securities, and the estimate of the earning capacity of railroads formed by such men and acted upon in buying and selling of the securities in the market generally establishes the market price.

"The cost of the physical property,—tracks, yards, terminals, buildings, engines, cars, etc.,—does not comprise the entire value of a property. There must be added the franchises, possession of traffic, competitive and non-competitive, and the extent and validity of an established transportation business. These constituent parts of railway property and corporate organization with the earning capacity enter into the problem of forming an estimate of the value of stocks and bonds for investment or in establishing market values."³³

Later on we shall give the opinions of the railroads on these several elements in determining the values of railroad property. Here, however, we may note that, as in Michigan and other states, the earning capacity is recognized as the most important factor in determining the value of railroad property.

The Wisconsin Commission considered that railroads ought to be taken as entireties and could not be broken up into properties to be valued separately in each municipality, city or state. When the whole valuation is taken, it can be apportioned to the different states on a mileage basis as the best known method of division. However, in discussion with the Ontario Commission the President of the Board stated that while they held to that position in a general way, "The Legislature has not bound us to proceed on a mileage basis. We purposely omitted that from the Act presented to the Legislature, and we think properly so. I think that rule is too hard and fast." He referred to the Illinois Central and some other cases where such a rule, if enforced, would result in hardship. These cases had been brought up by representatives of the railroads in their conferences with the Tax Commission.

Further difficulties in the way of getting at the real values of railroads are thus stated by the Wisconsin Commission: "Originally railways by their charters were only granted the privilege or franchise to do business as common carriers. To the right or privilege of owning property and facilities necessary to the transportation of passengers and freight has been added the privilege of owning other property not essential to their operation as common carriers. Under the laws they are empowered to own lands, outside of what is necessary to their business, as well as stocks and bonds in other railway corporations, not required in the operation of the holding company as a single, common carrier. The precise value of these privileges separately, or in combination, may be difficult of ascertainment, but as progress is made in devising systems for their taxation better methods may be found for their appraisal for taxation. In estimating the value of the franchises of railways, the privilege or franchise of holding stocks or bonds in other railways or lands unnecessary to their operation, may be an element for consideration. It may be difficult to ascertain in all cases just how far or to what extent the value of the franchise or right to hold securities in other companies, or to own lands or other property not needed in operation, may be increased by the

³³ Report of 1903, pp. 185-6.

value of such securities or property. It should be distinctly understood that in making the tabulations of the value of the railways, in deducting the lands and securities above specified, it is not admitted that in estimating the value of the franchise or in providing laws for their taxation, the value of lands or securities is to be wholly eliminated from consideration.

"The many forms and purposes corporate organization may take in this ingenious age, and the conditions which may follow the organizations of stock holding corporations, or the extension of that privilege to railway companies whereby the real control of the property of a corporation and its capital may be transferred from a state grant in the corporate franchise to another jurisdiction, render it unwise to adopt a general rule for the deduction of stocks and bonds in other companies. Stocks and bonds may have a value beyond the right to receive dividends and interest thereon. Each case should be determined upon the facts shown to exist at the time.

"The discretion of the Legislature to provide adequate methods and rules for the taxation of franchises should remain untrammelled, as future conditions which may call for the exercise of the power conferred upon the Legislature cannot now be fully known or anticipated."³⁴

Here, as in the case of Michigan, the whole onus of solving these difficulties and of getting at the valuation of railroads for purposes of taxation, rests upon the members of the Tax Commission. As it is in the end simply a matter of their judgment, there is no common basis of reference by which either the railroads or the public can determine whether or not the valuation is a fair one.

In obtaining a valuation of the physical properties of the Wisconsin railroads, no such elaborately expensive method, for the State at least, as that of Michigan was attempted. Each of the railroads in the State was asked by the Commission to make an examination of its physical property, being furnished with an elaborate system of blanks to be filled in under much the same headings as in the case of the Michigan appraisal. Professor Taylor of the University of Wisconsin, as the advisory engineer of the State Tax Commission, was charged with the duty of going over the appraisals to examine and revise them. The cost of the appraisal thus fell upon the railroad companies. The Chicago and North Western, for instance, employed sixty men on their system at a cost to the company of \$19,000. As to the accuracy of the reports received Professor Taylor thus expressed himself to the Ontario Commission. "In the first place we received the reports from the roads as furnished by themselves. We do not refer to Government reports as to the conditions of the roads, but we sent expert field men over the tracks, etc. About twelve men were sent out. We did not go into the matter to such an extent as Michigan. We asked the railways to arrive at the physical value of the roads themselves and then we merely checked sections of them. The actual returns were made by the railways in the most careful manner, and the appraisals were in general remarkably correct and reliable. Of course reports of real estate and rights of way men were not quite so reliable as those of the engineering staff. As far as they could, however, we feel that the railways gave an honest report. In the case of one railway valued at \$67,000,000 there was only a difference between us of three and a half millions on the total, and the railroad had the higher figures. Field experts were employed only to verify the assessments." And again "The report is not made on oath, but it is made with the understanding that our forces can take up any section of their road and determine whether the appraisal is correct or not."³⁵

³⁴ Report of 1903, pp. 200, 201.

³⁵ Ont. Com. Interviews.

The physical valuation of the railroads, however, even as revised by Professor Taylor is by no means binding upon the Commission as a basis of valuation. "The cost of railways as reported is not considered as of great importance as evidence of value. In few cases only, does this item in the railway report represent the original cost, for in reorganizations of small roads into the present systems little attention was given to original cost of the roads reorganized. Were the original cost carried into the new consolidations it has little relation to the actual value. In the annual expenditures for maintenance in the last twenty years or even less, the property very generally, except right of way, has been practically reconstructed.

"It may be a question whether a new railway of equal physical excellence to some of the roads operated in Wisconsin can be reproduced within a period of ten years.

"The theory that the cost of reproduction will represent the value for taxation purposes is not supported by economic conditions. Professor H. C. Adams says on this point: "The truth is that commercial results of a long established line of communication have become so integral a part of the existing industrial structure that an estimated cost of reproduction would bear no relation to the commercial valuation of the property."³⁶

As a matter of fact the roads are required to furnish much other data. "We ask for reports of capital stock and all their funded debt, we ask them also for the average market value for five years of their capital stock and all their bonds, and in addition request them, in furnishing the value of the stock and bonds, to give gross and net earnings for a period of six or seven years."³⁷ In stating their position with reference to the valuation of railroads, the President of the Wisconsin Commission said: "The Board is not required to give to any railway the exact method of arriving at their assessment. The law requires, however, that we should notify each railway company of the preliminary valuation made upon them, and they are entitled to be heard." Again, "There are some roads that have a value over and above what it would cost to reproduce their property, by virtue of established traffic, connections with other roads, etc. On the other hand, we find some small roads in the State that probably are not worth for taxation purposes the amount of their physical value." And again, "We take into consideration the earning power of a road, for how long a period the earning power is stationary or increasing, in the case of a prosperous road, and where there is a deficit we take that into consideration. In this State there are some roads, perhaps fifty miles long, which are not worth much more than the scrap value of the road. The taxation on such a road might be less than Professor Taylor's physical valuation of the road. When a railroad is chartered it has to perform certain public duties; for instance, it cannot stop without permission of the legislature, and therefore if they are losing money in operating we take that into consideration."³⁸

As to the necessity for having the whole of a railroad property valued by a central state board, instead of allowing it to be valued by municipal assessors, the President of the Commission stated, "We consider that the local officials in the State are totally unacquainted with the facts which would enable them to get the value or to make a fair valuation."³⁹

Statistics as to the gross earnings and taxation of the Wisconsin Railways are here given.

"The gross earnings, operating expenses and income from operation of the railways of Wisconsin for five years have been tabulated for each com-

³⁶ Report of 1903, p. 194.

³⁷ Ont. Com. Interviews.

³⁸ Ont. Com. Interviews.

³⁹ Ont. Com. Interviews.

**Mileage, Gross Earnings, Operating Expenses and Income from Operation of
Railroads in Wisconsin.⁴¹
Roads of First Division.**

Names of Roads.	Mileage.	Gross earnings.	Operating expenses.	Percentage of operating expenses to gross earnings.	Income from operation.	Income from other sources.
1. Chicago, Milwaukee & St. Paul	1,665.49	\$12,653,708 98	\$ 7,367,750 79	58.23	\$ 5,285,958 20	\$ 52,196 56
2. Chicago & Northwestern	1,588.68	12,941,244 42	7,992,134 08	61.76	4,949,110 32	425,906 71
3. Chicago, St. P., Minn'l's & O...	625.84	3,929,584 27	2,668,956 37	78.01	1,060,627 89	122,223 89
4. Chicago, Burlington & Quincy	222.54	1,426,010 45	821,765 75	57.63	604,244 70	24,625 35
5. Green Bay & Western	225.00	474,603 32	871,719 70	78.32	102,883 62	1,189 58
6. Minn'l's, St. P. & Sault Ste. M.	289.05	1,421,630 93	705,331 24	49.63	716,299 68	1,030 21
7. Northern Pacific	114.82	249,563 77	249,563 77	54.45	208,795 96	19,846 75
8. Wisconsin Central	848.51	4,748,272 33	3,305,624 46	69.61	1,442,647 87	20,342 93
		\$38,053,414 43	\$23,682,846 16	62.24	\$14,370,568 24	\$667,361 98

§Three years.

Roads of Second Division.

Names of Roads.	Mileage.	Gross Earnings.	Operating expenses.	Percentage of operating expenses to gross earnings.	Income from operation.	Income from other sources.
1. Abbotsford & Northeastern	15.16	\$ 18,822 29	\$ 12,856 61	63.30	\$ 5,965 68	\$.....
2. Ahnapee & Western	34.00	38,612 75	23,785 68	61.65	14,827 07	.....
3. Big Falls R'y	21.00	8,561 01	8,118 59	94.83	442 42	.....
4. Bayfield Harbor & Great Western (Bayfield Transfer)	3.86	6,843 40	8,363 81	122.22	*1,520 41	.....
5. Chicago, Lake Shore & Eastern	15.46	72,690 73	50,746 54	69.81	21,944 19	.....
6. Chicago & Lake Superior	3.00	3,069 47	4,276 19	139.31	*1,206 72	.....
7. Chicago, Mad. & Northern (operated by Illinois Central)	91.31	100,797 96	135,442 55	134.39	*34,644 59	.....
8. Chippawa River & Menomonee	32.95	35,743 72	33,435 30	93.45	2,308 42	7,273 69
9. Drummond & Southwestern	21.72	17,805 05	14,625 15	82.14	3,179 89	.....
10. Duluth, Sup. & West. Terminal	4.85	505,199 36	158,647 83	28.37	346,551 53	161 70
11. Duluth, South Shore & Atlantic	107.75	260,360 58	204,565 49	78.57	55,795 08	33 07
12. Dunbar & Wausaukee	15.50	25,189 46	6,277 59	24.92	18,911 86	.....
13. Eastern R'y of Minnesota	33.09	592,849 67	378,908 89	63.92	213,939 78	94,827 09
14. Fairchild & Northeastern	29.20	30,331 47	15,380 98	50.71	14,950 49	.....
15. Hawthorne, Nebaganon & Superior	16.28	37,237 68	23,298 28	62.56	13,939 41	.....
16. Hazelhurst & Southeastern	17.00	21,991 75	18,460 44	83.94	3,531 31	.....
17. Wm. Holmes & Son R'y	42.67	1,753 00	.....	.....	1,753 00	.....
18. Iola & Northern	4.70	5,490 41	5,113 39	93.13	377 03	.....
19. Glenwood & Northeastern	14.15	225 00	14,336 48	637.20	*14,111 48	.....
20. Keweenaw, Green Bay & West'n	36.70	76,947 87	45,719 68	59.42	31,228 19	65 58
21. Lake Shore & Eastern (operated by J. R. Davis Lumber Co.)	.....	.....	.....	.....	.....	.....
22. Lake Sup. Terminal Transfer	15.70	66,994 79	54,615 52	81.52	12,379 00	.....
23. Matoon R'y Co.	19.36	9,689 83	12,807 28	132.17	*3,117 44	.....
24. Milwaukee & Superior	25.41	42,076 52	25,437 50	60.45	16,639 00	2,856 36
25. Marshfield & Southeastern (now Wisconsin Central)	33.00	37,881 65	20,136 66	53.15	17,744 99	.....
26. Marinette, Tomahawk & West'n	38.46	35,779 50	35,778 77	100.00	73	.....
27. Minnesota & Wisconsin now Chi., St. P., M. & O.)	22.67	32,435 76	20,653 54	63.68	11,782 22	.....
28. Minneapolis, St. P. & Ashland	45.00	.....	.....	.....	.....	.....
29. Northern Coal R'y	10.19	28,309 34	22,566 32	79.71	5,743 05	25,983 45
30. Oshkosh Tran. Co. (operated by C. & N. W.)	4.28	9,165 30	2,583 52	28.19	6,581 78	.....
31. Rice Lake, Dallas & Menomonee	7.52	11,340 40	10,098 45	89.01	1,241 94	.....
32. St. Paul & Duluth (now Northern Pacific)	13.63	21,642 96	16,643 29	76.90	4,999 67	6,236 58
33. Superior Belt Line (Great Northern)	.....	.....	.....	.....	.....	.....
34. Washburn, Bayfield & Iron River (now Northern Pac.)	34 00	56,257 95	76,768 01	135.10	*19,910 06	.....
35. Winona Bridge R'y Co.	.54	11,326 85	3,761 56	33.21	7,565 29	.....
36. Wisconsin & Michigan	32.82	76,909 58	54,953 37	71.45	21,956 21	.....
37. Whitcomb & Morris R'y	6.00	3,068 67	3,431 71	111.10	*343 03	.....
38. Wisconsin Western	51.45	40,667 29	46,429 53	114.19	*5,762 24	262 41
		\$2,344,689 02	\$1,569,025 50		\$775,663 55	

*Deficit from operation. †Two years.

‡Three years.

§Four years.

§1899.

¶No reports.

⁴¹ Report of 1903, p. 206, 208.

6a R.T.C.

pany from its reports to the Railroad Commissioner, and the average for five years made as follows: The gross earnings of a road for five years are added together and the total is divided by five, which gives the average gross earnings for five years. The same method was observed in obtaining the average amount of operating expenses and income from operation. When a less number of years than five is reported the average for the years given is taken and is shown in the tables."⁴⁰ (See tables on previous page).

Of these railways the following are controlled by the Canadian Pacific Railway through the ownership of a majority of the capital stock: Minneapolis, St. Paul & Sault Ste. Marie Ry. Co.; Duluth, South Shore & Atlantic Ry. Co.

Mileage, Gross Earnings, Operating Expenses, etc., of Railways in Wisconsin from 1882 to 1902.

Year.	Mileage.	Gross earnings.	Operating expenses.	Income from operation.	Percentage of operating expenses to gross earnings.
1882	3,833	\$18,769,197	\$10,276,746	\$ 8,492,451	54.8
1883	4,091	19,707,858	11,866,096	7,840,762	60.2
1884	4,245	20,411,574	11,845,576	8,565,998	58.0
1885	4,279	20,269,097	11,997,947	8,271,150	59.2
1886	4,778	20,972,281	12,311,171	8,661,110	58.7
1887	5,116	24,578,206	14,788,619	9,789,587	60.2
1888	5,276	24,891,619	16,632,125	8,259,494	66.8
1889	5,406	25,861,208	17,662,344	8,198,864	68.3
1890	5,476	26,451,565	18,737,745	9,713,820	63.3
1891	5,549	28,040,299	18,063,328	9,976,971	64.4
1892	5,785	31,732,051	20,082,616	11,649,435	63.3
1893	5,925	33,263,551	21,533,955	11,729,596	64.7
1894	6,004	28,318,544	18,285,467	10,033,077	64.4
1895	.....	25,943,860	16,225,097	9,718,763	62.5
1896	6,093	33,575,971	19,990,610	13,585,361	59.5
1897	6,208	30,632,018	18,256,045	12,375,973	59.6
1898	6,374	35,013,931	20,479,724	14,534,207	58.5
1899	6,410	37,509,466	23,277,528	14,231,938	62.1
1900	6,497	41,257,551	25,715,236	15,542,315	62.3
1901	6,620	40,377,032	25,289,087	15,087,945	62.6
1902	.....	45,079,163	28,142,087	16,937,076	62.4
Total 21 years		\$612,655,042	\$379,459,149	\$233,195,893	61.9

The method by which the Wisconsin Tax Commission attempted to solve the problem as to whether the railroads were paying their just share of taxation is as follows. "The Commission from the investigation of facts and statistics covering a period of seven years from 1895 to 1901 has ascertained and determined the true cash value of all the taxable property in the State to be the sum of \$1,504,346,000.

"The total amount of State, County and local taxes as reported to the Commission by the Secretary of State for the year 1901 is \$20,053,635.45.

"The amount of taxes thus reported includes the one mill tax of \$1,456,284, which is an increase in that tax in 1901 of \$806,284 over 1900. The local taxes in the State should be \$806,284 less in the following year. The sum of \$806,284 should, therefore, be deducted from \$20,063,635.45 leaving a balance of \$19,257,735.45, which is the just and proper amount of all state, county and local taxes in 1901 for obtaining the rate of tax.

"The license fees paid by all the railways of the State in 1902 are \$1,711,900.18.

⁴⁰ Report of 1903, pp. 206, 208.

"The lowest amount of the market value of the stocks and bonds of the railways of the State on the average of seven years (1895-1901) after deductions of lands and collateral bonds is \$217,854,026.

"The lowest valuation of the railways obtained by the capitalization of their income from operation for eleven years (1892-1902) is \$220,341,950.

"To ascertain the taxes the railways would pay on the valuation of their property on the ad valorem basis on either of the amounts above given it will first be necessary to calculate the rate per cent. to be applied to said amount in order to obtain the total of taxes on such property.

"The total value of the taxable property of the State should be added to the value of the railroads and the state, county and local taxes of 1901 should be added to the license fees paid in 1902 by the railways to ascertain the rate per cent. which would be levied if both kinds of property were taxed on the ad valorem basis.

"In case the railways were assessed and taxed by the ad valorem method on said valuation, the total taxes on railway property at the rate per cent. stated would be as follows: ⁴²

	Valuation.	Rate of tax.	Amount of tax.
(1895-1901)	\$217,854,026	1.2176	\$2,652,590 62
(1892-1902)	220,341,950	1.2093	2,664,950 20

This would mean about one million dollars a year of increased taxation from the railways of the State. Here it is only necessary to draw attention to the fact that the valuation of the railways of Wisconsin is reached by capitalizing their income at six per cent. though the railways claim that it should be eight per cent. As the representatives of the railways point, no such attempt is made to get at the valuation of other property in the State, and indeed what we find is that the total value of the taxable property of the State is given as \$1,504,346,000, while the valuation of the railways is \$220,341,950, which gives the rather remarkable result that the general taxable property of the State is less than seven times the railway property. This on the face of it would seem to support the contention of the railways that their property is valued out of all proportion to the other property of the State.

The State Tax Commissioners in their instructions to the assessors throughout the State indicate that the general property of the State is not adequately valued and that it is extremely difficult to secure an adequate valuation. Thus they say: "Failure to accurately value property for taxation is the source of much complaint and litigation, and the great difficulty in the work of the town, county and State boards of equalization. For many years it has been the practice in nearly all parts of the State to assess all kinds of property at considerably less than actual value. The practice cannot be too strongly condemned. From it spring virtually all the evils of incorrect valuations and much of the inequality in the apportionment of tax burdens. It is of course true that an assessment made uniformly at one-third or one-half, or any other fraction of full value, could work no injustice as between individual tax payers in the same assessment district. In some districts this may have been accomplished as nearly as human skill and justice can ordinarily approximate such result in the time afforded for the work. It has doubtless been attempted with varying degrees of diligence and success in many other districts. But in a large number of instances it would be diffi-

⁴² Report of 1903, pp. 215-17.

cult if not impossible to discover any uniform ratio or proportion between assessed and true values. It is not believed that such conditions are often due to intentional omission of duty on the part of assessors. Long continued practice of undervaluation has resulted in a gradual and almost unconscious adoption of arbitrary valuations or sets of valuations for assessment purposes having little reference and no uniform relation to true values. This comes about in part from taking valuations to some extent from former assessment rolls, comparing one item or property with another, which in turn has been valued by comparison with still another, and so on, without keeping in mind the true value or a definite percentage of true value as a fixed standard. In this way great want of uniformity may exist in the assessment of a single district without intention on the part of the assessor to favor anyone."⁴³

The President of the State Tax Commission stated that the local value of property had been increased from \$650,000,000 to \$1,200,000,000, while the State assessment of the same property, on which the apportionment of State tax was made to the various local districts, had been increased from \$630,898,000 to \$1,753,000,000 in 1903. This will illustrate the uncertainty of securing assessments at full cash value. As illustrating the relations of the various systems, local and central, to each other, we may take the following statement of the President of the Commission. "Last year the State tax was \$2,325,916, county taxes, including special charges for charitable and penal institutions, amounted to \$5,120,410. Total township, city and village taxes, including school districts, amounted to \$12,782,184, making a total tax of \$20,228,510. This will show the proportion of State taxes to county and local taxes. In raising that twenty million the local rate varies from one district to another; the county rate also varies; the State rate is uniform throughout and we endeavor to make a rate for each county so that it will be equal for all of them. As the State Board of equalization, we fix our own local value for State purposes. When we make a levy the Secretary of State fixes a rate and decides how much will be apportioned to each county. The county clerk and county board make a distribution of that between the various assessed districts in their country. They can raise the taxes in any way they like."⁴⁴

When we come to see how the total valuation is distributed between personal property and real estate, what we find under the State Board assessment is the following:

State Board Assessment.	Personal Property.	Real Estate.
1899	\$119,736,025	\$ 505,263,975
1900	126,309,232	503,690,767
1901	249,934,861	1,186,349,139
1902	277,969,027	1,226,376,973

Now nothing has been more obvious in recent years than the enormous increase in the value of personal property as compared with real estate. That these returns show, in the first place, a very much smaller return of personal property than of real estate, and, in the second place, a slightly less proportionate increase in personal property than in real estate, plainly indicates that in Wisconsin, as in many other states, personal property does not

⁴³ Instructions to assessors and Boards of Review, Wisconsin, 1904, p. 35.

⁴⁴ Ont. Com. Interviews.

bear its full share of taxation. If, then, it is found possible to assess railroads at their full value both as to personal property and real estate, we may realize the ground upon which the railroads claim that they are required to pay a larger proportion of the public taxes than their property warrants.

The Act as passed in 1903 as the basis of the new system of taxation in Wisconsin will come into operation in 1905. Its chief features are as follows:—

“Definitions and construction:

3. The term “property of a railroad company,” as used in this act, shall include all franchises, right of way, roadbed, tracks, stations, terminals, rolling stock, equipment and all other real and personal property of such company used or employed in the operation of the railroad or in conducting its business, and shall include all title and interest in such property as owner, lessee or otherwise. Real estate not adjoining its tracks, stations or terminals, and real estate not necessarily used in operating the railroad, is excepted and shall be subject to taxation like the property of individuals.”

“Reports to be made by railroad companies. Section 5.

“Every railroad company operating a railroad in this state shall annually, between the first day of July and the first day of September in each year, under the oath of the president or other chief officer and the secretary, treasurer, auditor or superintendent of such company, make and file with the board in such form as said board may prescribe, reports containing the following facts:

“1. The name of the company.

“2. The nature of the company, whether a person, association, company or corporation, and under the laws of what state or country organized, the date of original organization, date of reorganization, consolidation or merger, with specific reference to laws authorizing the same.

“3. The location of its principal office.

“4. The name of the place where its books, papers and accounts are kept.

“5. The name and postoffice address of the president, secretary, treasurer, auditor, superintendent, general manager, counsel, directors and all other general officers.

“6. The name and postoffice address of the chief officer or managing agent of the railroad company in Wisconsin and of all other general officers residing in the state.

“7. The total number of shares of capital stock.

“8. The par value of the shares of the capital stock for the whole system showing separately.

(I) Amount authorized, (II) Amount issued, (III) Amount outstanding, (IV) Also the dividends paid thereon.

“9. The market value of the shares of capital stock for the whole system, on the dates and for the periods the board may request or specify.

“10. If such capital stock has no market value, the actual value on the dates and for the periods designated by said board.

“11. The funded debt of the railroad company for the whole system, and a detailed statement of all series of bonds, debentures or other securities, forming a part of the funded debt at par value, with date of issue, maturity, rate of interest and interest paid.

“12. The market value of each series of funded debt for the whole system on the dates and for the periods designated by said board, and if the whole or a part of such funded debt has no market value then the actual value thereof for such dates and periods as said board may specify.

"13. Such general description of the real estate of the railroad company owned or operated in Wisconsin as would be sufficient in a conveyance thereof, under a judicial decree, directing a sale for taxes to vest in the grantee all title and interest in and to the said property.

"14. A like description of the personal property, including moneys and credits held by the company as a whole system and the part thereof apportioned to the line in Wisconsin.

"15. A statement in detail of all capital stock, bonds or other securities of such railroad company owned by, or held in trust for the company and the capital stock, bonds or other securities of other persons, companies or corporations owned by, or held in trust for it, and the par value and the market or actual value of the same.

"16. The whole length of the lines of the railroad system operated by the company and the length of the lines in Wisconsin whether operated as owner, lessee or otherwise. The length of the line owned and the length of of the line operated for the whole system and in Wisconsin, shall be separately reported.

"17. The entire gross earnings of the railroad company from operation, income from operation and the income from other sources for the whole system, and in Wisconsin, and the disposition made of such income.

"18. The entire gross earnings of such railroad company in Wisconsin for each and every month for each calendar year ending on the thirty-first day of December.

"19. The annual reports of the board of directors or other officers to the stockholders of the company, duplicates of the annual reports made to the interstate commerce commission, to the railroad commissioner of this state and to the railroad commissioners or state officers or boards of the other states in or through which their lines are operated.

"20. Such other facts and information as said board may require in the form of returns prescribed by it.

"Blanks for making the above reports shall be furnished to such companies by said board except for the copies of reports required under the provisions of subdivision 19 of this section.

"In case any company refuses or neglects to make the reports required by this act, or refuses or neglects to furnish any information requested, the board shall inform itself the best it may on the matters necessary to be known in order to discharge its duties with respect to the valuation and assessment of the property of such company."

"Assessment, how and when made; preliminary hearing. Section 7. The board on or between the first day of September and the first day of November in each year, according to their best knowledge and judgment shall ascertain and determine the true cash value of the property of each railroad company within the state. Every such company shall be entitled on its own motion to a preliminary hearing and to present evidence before such board at any time on or between the first and fifteenth days of September, relating to the value of the property of such company, or to the value of the general property of the State. . . . The value of the property of railroads for assessment shall be made as of the same time, and in like manner, as the value of the general property of the state is ascertained and determined by the board. The board shall prepare an assessment roll and place thereon after the name of each railroad company assessed, the following general description of the property "of such railroad company, to-wit.: "Real estate, right of way, tracks, stations, terminals, appurtenances, rolling stock, equipment, franchises and all other real estate and personal property of said company;

which shall be deemed and held to include the entire property and franchises of such railroad company within the state, and all title and interest therein. For the purpose of determining the true cash value of the property of each company, appearing on the assessment roll, the board may, if deemed necessary, view and inspect the property of such company and shall consider the reports filed in compliance with this act, and the reports and returns of the company filed in the office of any officer of this State, and such other evidence or information as may have been taken or obtained bearing upon the true cash value of the property of the railroad company assessed. In case of railroad companies which own or operate railroads lying partly within and partly without the state, the said board shall only value and assess the property within this state. In determining the value of the portion within the state the board may take into consideration the value of the entire system, the mileage of the whole system and of the part within this state, together with such other information, facts and circumstances as will enable the board to make a substantially just and correct determination.

"Review of valuation of railroad property; hearing: Section 10. Any railroad company interested shall have the right to appear and be heard as to the value and assessment of the property of such company and the tax to be levied thereon, and as to the value of the general property of the state, and the board may on such application or of its own motion correct the valuation or assessment of such company in such manner as will in its judgment make the valuation thereof just and relatively equal with the valuation of the general property of the state.

"Aggregate of state and local taxes to be basis of tax rate of railroad property. Section 11. The board on or before the first Monday in December and the fifteenth day of January in each year upon returns from the secretary of state, or from county, town, city and village officers or both, shall ascertain and determine the aggregate tax in the whole state for state, county and local purposes levied on the general property of the state, excluding special assessments on property for local improvements, and when the aggregate of all taxes, state, county and local consolidated, is thus ascertained and determined, the amount thereof shall be entered on the records of the board.

"Average rate of taxation to be rate of taxation of railroad property, how determined. Section 14. From the aggregate true cash value of the general property of the state and the aggregate of taxes determined and entered on the records, the board shall compute and determine the average rate of taxation, state, county and local consolidated, by dividing the aggregate taxes by the aggregate true cash value of the general property of the state upon which said taxes were levied, which said rate so arrived at and determined shall be entered upon the records of the board and shall constitute the rate of taxation on the true cash value of the property of the railroad companies liable to taxation under this Act.

"Assessments of 1904 and 1905. Section 22. The first assessment of the property of railroad companies under this act shall be commenced in the year 1903, and be completed in the year 1904, and shall be known as the assessment of 1904, and the second assessment of the property of railroad companies under this act shall be commenced in the year 1904 and completed in the year 1905 and shall be known as the assessment of 1905.

"Property exempt from other taxes; stock held in state exempt. Section 25. The taxes and license fees imposed by this act shall be in lieu of all other taxes on the property of such railroad companies necessarily used in the operation of such railroads in this state, except the same shall be subject to special assessment for local improvements in cities and villages. The taxes

and license fees hereby imposed or paid by such companies shall also be in lieu of all taxes on the shares of stock of such railroads owned or held by individuals of this state and such shares of stock in the hands of individuals shall be exempt from further taxation.

"Taxes and license fees collected to become part of general fund. Section 26. All taxes and license fees collected from railroad companies under the provisions of this act shall be paid to the state treasurer and become a part of the general fund for the use of the state.

"Board may appoint expert engineer and accountant, office force and assistants. Section 27. The said board is authorized and empowered to employ an expert engineer, an expert accountant and such clerks and assistants as may be necessary to properly perform the duties imposed by this act and in the work of the valuation and taxation of the property of railroad companies, and to fix their compensation."⁴⁵

Up to 1899 the tax on sleeping and palace car companies as distinct from railway companies was a license tax levied according to gross earnings as in the case of railways. The return to be made required a statement of the gross earnings of the Company's cars within the State limits. Upon these gross earnings a tax of four per cent. per annum was levied. By the act of 1899 this system was changed to the ad valorem basis. In the case of sleeping car companies the tax is levied upon that portion of the value of the capital stock of the company which is considered to be represented by the employment of cars within the State. The assessment is made by the State Board of Taxation and is based upon returns required to be furnished by the sleeping car companies to the State Treasurer on blanks furnished by him. From the data furnished the State Board determines the proportion of the value of the stock of the company employed in the sleeping car business. By ascertaining the total number of miles over which the cars of the company operate, and dividing this into the amount of capital stock, the value per mile of the stock is obtained. This being multiplied by the number of miles over which the company operates within the State of Wisconsin gives the amount of taxable value of the Company within the State. Upon this the average rate of taxation for the State, as made up for the State and local rates, is levied.

Freight line and equipment companies are treated in a similar manner. In the case of express companies, which are treated on the same basis, the ocean mileage of their business is not included in determining the value of the capital per mile.

VIEWES OF WESTERN RAILWAYS ON THE SUBJECT OF TAXATION.

The Ontario Commission, partly by personal interviews and partly from printed reports of conferences between representatives of the railroads and the Wisconsin and other Tax Commissioners, obtained the views of representatives of some of the leading railroad companies centering in Chicago. These had special reference to the validity and justice of the system of taxation lately adopted by the States of Wisconsin and Michigan. However, as these arguments apply to various proposed methods for the valuation of railroad property, for purposes of taxation, a summary of them will throw considerable light upon the subject of railroad taxation in all the Western States at least.

⁴⁵ Chap. 315, Laws of Wisconsin, 1903.

Most of the western railroad companies having terminals in Chicago, owing to the numerous changes and experiments of the Western States in connection with the subject of railway taxation, have found it necessary to maintain a separate department of railroad administration to deal with questions of taxation alone. The head of such a department is known as the Tax Commissioner of the railway. As he has to deal with the various systems of taxation applied in the different states through which any part of his railway may run, he is usually in a position to discuss railway taxation with a wider range of knowledge and experience than the Tax Commission of any single state, except where its members may have made a special study of the systems of other states.

The first railway commissioner interviewed by the Ontario Commission was Mr. Frank P. Crandon, Tax Commissioner for the Chicago and Northwestern Railway, one of the most important systems of the West. In common with most railway men, both east and west, he considered the railway assessment recently adopted by Michigan as the most unjust in comparison with the assessment of other property. With reference to Wisconsin, the railways were suspending judgment, as they had not yet been notified of their assessment in that State under the new ad valorem system. In discussing the various methods of valuing railways, Mr. Crandon considered the stock and bond basis of valuation, as determined by the market quotations, a very unsatisfactory one. The manipulations of the market often had little or no relation to the actual condition of the road whose stocks and bonds happened to be traded in. In many cases the better class of railway securities were not dealt in on the market, for the simple reason that they were held either as trust securities or by other corporations. Moreover, the value of the stock and bonds of a company must depend upon all its earnings, whether these are derived from transportation or not, and it therefore becomes unfair to tax a company on a mileage basis in any given state when the value of its securities may not depend upon its business in that state, in any just proportion to its mileage in it. In illustration of the uncertain fluctuations of the market values of stocks and bonds, Mr. Crandon pointed out that in 1902 the C. & N. W. preferred stock was selling at 273. Though the road had since been considerably improved and had better earning power, the same stock had lately been selling for 163. To take an average over a period of years would doubtless minimize the errors due to fluctuations in market rates, but from such an unreliable source a just basis of valuation could not be derived. Mr. Crandon has discussed these questions with some others in a special pamphlet entitled, "Objections to the Stock and Bond theory of Railway Assessment," presented to the Ways and Means Committee of the Iowa Senate, 1902.

Net earnings Mr. Crandon considers to be the soundest basis for the taxation of railways. In determining net earnings the operating expenses and other legitimate charges have to be deducted from gross earnings. Legitimate operating expenses should consist only of that outlay which is necessary to keep the physical condition of a railway up to the standard determined by past capital expenditure. Any improvements which render the road a more valuable property than before, ought to be charged to capital expenditure, and any earnings devoted to this purpose should still be regarded as net earnings. A wide practical experience proves that legitimate operating expenses will usually amount to between 63 and 70 per cent. of the gross earnings. Mr. Crandon's views on these subjects were shared by practically all the railway companies centering in Chicago.

In a printed report of the "Arguments as to the fair Taxable Value of Railway Property in Wisconsin, of the Chicago and Northwestern; Chicago,

Milwaukee and St. Paul; and Chicago, Burlington and Quincy Railroad Companies in February, 1904," we have some interesting discussions between the representatives of these railways and the Wisconsin State Tax Commission. In this conference, Mr. Crandon maintained that since the State of Wisconsin has reverted to the ad valorem system it should treat railways as it treats other property in the State, namely by valuing the tangible property alone. For the C. & N. W., that would amount to \$45,208,566. The Commission, however, in capitalizing its income at six per cent. had valued it at \$82,485,172. Mr. Crandon did not deny that railways might have an intangible value over and above their physical value, but this was exceedingly difficult to define and discover. This phase of value, however, was not peculiar to railways, as compared with other forms of property, and since no attempt was made to assess this value in the case of private property, equity required that it should not be done in the case of railways. Again, in valuing roads on a mileage basis, the value of all property not strictly pertaining to the operation of the railway should be deducted, also the values of the terminals in large cities, which should not be taxed by states in which they are not located. The valuation of the main track alone, for a whole system, might fairly be distributed on a mileage basis. This, however, might result in inequality where only branch lines ran into particular states. Instances of this were given by representatives of some of the other railways. As to the franchise value of a railway, Mr. Crandon argued that it was not in the nature of a monopoly, such as the franchise granted, for instance, to a street railway to use the streets of a town or city. For such franchises, constituting a monopoly privilege, street railways were usually required to pay considerable sums to the municipalities. A railway, however, may be paralleled at any time and its opportunities for doing business greatly curtailed. Hence, no special tax should be levied upon railways in virtue of their so-called franchises.

In reply to a request from the president of the Wisconsin Tax Commission to state the chief elements which ought to be taken into account in valuing railways, presumably on the ad valorem basis, Mr. Crandon stated that the values might be grouped under two heads, first those which dealt with the tangible property, second, those which pertained to the intangible elements. Under the first the most important element was the physical property. The intangible values will depend very much upon the earnings of the property which, as already pointed out, are often very different from the earnings of the business as a whole, including as they do other sources of revenue besides the operation of the railway. He considered the earning power of the road a very fair basis for determining its value, taking the earnings as averaged over five-year periods.

Mr. A. S. Dudley, Tax Commissioner for the Chicago, Milwaukee & St. Paul railway, the other most important road operating in Wisconsin, presented his views on the subject of taxation. The cost of the reproduction of their line in Wisconsin they had found to be \$59,269,760, and its present value was estimated at \$44,974,994. The estimate of its capitalized value as made by the tax commission was \$88,099,303. He also held that since Wisconsin had reverted to the ad valorem system it was absolutely essential that the railways should be valued on the same basis as all other property, and hence unless intangible property were assessed to individuals and other corporations it should not be included in the assessment of railways. He quite agreed with Mr. Crandon as to the futility of attempting to get at true values through the market quotations of stocks and bonds. If railways have a greater source of income than is represented by their physical property, so have other corporations and private individuals, but they are assessed only on their actual property, and as there is no income tax in Wisconsin the rail-

ways should not be taxed upon income when other incomes escape. The sole professed object of introducing the ad valorem system in Wisconsin was to put the railways upon the same basis as other property in the matter of taxation, and the ad valorem system should not, therefore, be employed to take more out of railways than out of other property.

The President of the Commission stated that the railways were required by law to be valued on their franchises, while other property was not, and if there was any inequality it was the fault of the law, not of the assessors.

Mr. G. K. Peck, the General Counsel for the C. M. & St. P. maintained that if railroads were to be assessed on franchise values then all other corporations and individuals should be taxed on the same basis.

Mr. W. W. Baldwin, assistant to the President of the Chicago, Burlington & Quincy Railway, represented that railroad, which is the third in importance of those operating in Wisconsin. His evidence brought out the interesting fact, from the point of view of the ad valorem system of taxation, that the cost of grading the C. B. & Q. averaged about \$12,000 per mile, while the grading of the C. & N. W., and the C., M. & St. P., averaged only about \$6,000 per mile. This was due to the location of the former line along the Mississippi river, yet the relative value of the roads bore no relation to this difference in the cost of construction.

Mr. Baldwin put the value of the reproduction of the C., B. & Q., in Wisconsin at \$6,320,000, while the Commission had capitalized it at \$10,074,078.

Of the traffic of this road in Wisconsin, 88 per cent. neither originated nor terminated in that state. It simply passed through it, representing business done between Minneapolis and St. Paul, on one hand, and Chicago on the other. At the same time the taxes paid to Wisconsin on this transit traffic averaged, for the last seven years, \$240 per mile annually, which was in excess of the average per mile for the whole system.

In dealing with the question as to whether railways could be valued on the same basis as ordinary private property, Mr. Baldwin said that in valuing a horse, a watch, a farm or a share of bank stock, one has simply to consider "what it will sell for or what you can get another equally good for," and this is a thoroughly sound principle in such cases. But this cannot be done in the case of railways and "one reason why you cannot do this is because of the practical difficulties in the way. There is no market for railways." The consequence is that various expedients, not applied to other property, are adopted to enable assessors to get at the value of railways. These are, among others, valuation of franchises, assessment on bonds and stocks, the capitalizing of income, etc. "You must be conscious of the steadily increasing tendency of all forms of wealth to assume corporate shapes and the increasing facility with which they are evading taxation. At the same time you are being asked to adopt expedients through which, by construction and indirection, wealth invested in railways may be reached." He then quotes from the report of the United States Industrial Commission of 1901, as to the unsatisfactory result of the attempt to deal with all classes of property on the same basis of valuation, and particularly on the ad valorem basis. He adds his own conviction, "that the experience of thirty years with the ad valorem system, as applied to the taxation of railroad property in this country, has substantially demonstrated that it is not a sound, or wise, or truthful system, from the economic or scientific standpoint. From the political standpoint, it is probably all right. Wherever there is a popular feeling that a system for taxing railroads should be adopted, whereby their property is 'valued' in the same way that other property is valued, then let them pay the same taxes that other people pay, it is probably a sound political expedient to yield and

undertake the impracticable. But, from the broader standpoint of a true system of taxation, it is a failure."

Mr. Baldwin objected to the general principles of the mileage basis for distributing total values as between states. It is not fair to tax a railway on its whole valuable system simply because it happens to have a branch line of little importance in any given state, as in the case of the C. & N. W., in Michigan, or the Illinois Central in Wisconsin. The truth of this position the President of the Wisconsin Commission admitted in the interview with the Ontario Commission.

In common with Messrs. Crandon and Dudley, Mr. Baldwin objected to the stock and bond basis of valuation and stipulated that if earnings were to be taken as a basis for capitalization, only those earnings should be considered which are derived from the business of transportation and from traffic within the state. "Nobody disputes that both earnings and stock market quotations throw light upon railroad values. What we protest against is the rank injustice of using these things when they may indicate exaggerated values, with the moral certainty that they will be ignored when they indicate low values, while all our experience teaches that in the railroad business the periods of depression and low earnings are sure to come." He stated that at present the C. B. & Q., pays to Wisconsin more than 12 per cent. of its net earnings. This is practically the same proportion as that paid by the C. & N. W. and the C. M. & St. P., while several of the smaller roads pay larger percentages. He then points out that practically no other individual or corporation has to pay such a percentage upon net earnings. In conclusion he maintains that a rate of nine per cent. on net earnings or three per cent. gross earnings would be a more equitable system and rate of taxation than any other that could be devised.

In Minneapolis the Ontario Commission interviewed Mr. H. B. Dyke, Tax Commissioner for the Minneapolis, St. Paul and Sault Ste. Marie Railway, which is really a branch of the Canadian Pacific Railway, and which passes through several states including North and South Dakota, in which, as in most of the Western States, they have the ad valorem system in railway taxation. In North Dakota the railways are assessed on a mileage basis. The valuation is made on the basis of right of way, road bed, rails, equipment and franchise. "The last time I was up before the State Board of Equalization," said Mr. Dyke, "I tried to impress upon them the rule that an equitable system should be to take the earnings as a basis, but they held that the law did not require them to take into consideration the earnings, that it was not an element that should enter into the value of the road, but that what they should do was to find the actual value of the franchise. I contended that a franchise had no more intrinsic value than what you could get it for,—say \$50—merely the right to do business."

Again, with reference to the operation of the system in North Dakota, he says "Our taxes are approximately about \$120,000 being an assessment on three hundred and sixty-one miles. As I said before, we are assessed at about \$7,000 per mile on main line, and about \$6,000 per mile on branch line. We consider we are overtaxed in North Dakota for the reason that as far as our particular line is concerned we are situated somewhat peculiarly. There is the Great Northern and the Northern Pacific; the latter is assessed at \$7,500 per mile, and we are, therefore, assessed within \$500 per mile of what the Northern Pacific is. Now the Northern Pacific has a bridge across the Missouri River that would build every foot of our line from Hankinson to Bismark. They have a better track, heavier rails, it is an older road, they have a station at Bismark the cost of which is equal to that of several stations on our road, they have extensive shops at Fargo, they have large terminal yards

at Jamestown and at Dickinson and our assessment ought not to be over half of what the Northern Pacific is. Again, they run through much better territory, their earnings, over and above operating expenses, are much larger than ours. The Great Northern is also assessed at \$7,500 per mile, and yet there ought to be some difference between these two roads. The Northern Pacific has much the better road. The whole story is that the system in North Dakota is radically wrong, any system is radically wrong that will permit a Board to make an arbitrary assessment, as they do in North Dakota. If they would assess railways as they do other property it would be entirely different. . . . For railroads situated in practically a new country, such as our line traverses, I think that taxation based upon gross earnings is the most equitable for all parties."⁴⁶

He would, however, have the rate of gross earnings graduated according to the income of the road per mile.

M. Dyke specially objected to the ad valorem system where there was no standard of valuation and no basis of reference. The Board of Assessors or the Tax Commission, or whatever be the name of the assessing authority in the different states simply puts a general valuation on the property without being required to state how that valuation is arrived at or of what factors it is made up.

Though these views of the representatives of the railways were given, as a rule, in reference to special states, yet they apply in general to the various Western States in which the ad valorem system is in operation. It should be noted, however, that the railways do not necessarily take exception to the actual amount of taxes levied upon them in each of the States having the ad valorem system. They were, as a rule, contented with the Illinois rate of taxation and did not specially complain of Indiana, and yet they did not consider the system of taxation as a sound or safe one.

MINNESOTA.

The system of taxing railroad companies upon their gross receipts alone, has been in operation in Minnesota for upwards of thirty years. It is still considered, alike by the great majority of the people, the railroad companies, and the officials who administer it, as the simplest, fairest and most efficient system which can be devised.

Before 1887 the system, though accepted by most of the railroads, was not compulsory on all. In that year, however, the law was changed, making taxation upon gross income imperative and uniform for all railroads. This tax is in lieu of all other levies throughout the State, except in the case of special assessments for local improvements. But lands held by the railroads, when sold or leased to other parties, become subject to ordinary taxation. In 1895 an act was passed providing that lands held by the railroads, but not used in connection with their operation, should be subject to ordinary taxation. The validity of this act has been disputed by the railroad companies.

The process of assessment and taxation, under the Minnesota system, is a very simple one. Every road must make to the State Railroad and Warehouse Commission an annual or semi-annual report of the gross earnings of the company within the State of Minnesota. It is the duty of the Commission to verify this report and then to certify to the State Auditor the gross earnings, the per cent. to be charged thereon and the total amount of taxes due by each company. The duties of the Auditor are confined to making a draft upon the respective companies and placing the collection of it in the hands of the State Treasurer.

⁴⁶ Ont. Com. Interviews.

The rate of the tax on gross earnings is fixed by statute at one per cent. for the first three years of operation, two per cent. during the next seven years, and three per cent. thereafter. To secure payment of taxes, the State has a first claim upon all property, real and personal, belonging to the railroad. Though there is little disposition in Minnesota to change the system of railroad taxation, yet there is considerable agitation afoot to increase the normal rate on gross earnings from three to four per cent. The representatives of the railroads maintain that the existing rate of three per cent. is quite high enough in proportion to the taxes paid by other forms of property. Politicians, however, and the State officials claim, and support their claim with various statistical arguments, that the railroads should pay a larger percentage. A popular movement with this object in view has been on foot for some years, and is still an active issue in practical politics.

This is only part of a more general movement for the readjustment and improvement of the general system of taxation in Minnesota. In 1901 a State Tax Commission of three persons was appointed, whose duties were summarized as follows: "The duties of said Commission shall be to make a tax code for the State of Minnesota. Such code shall include a complete system for the just and equitable taxation of all forms of property, both tangible and intangible, and shall be properly indexed and prepared in the form of a bill or bills for presentation to the Legislature. Said code shall include provisions for a permanent Tax Commission, and shall define its duties, powers and compensation. The Commission shall also prepare and report, a bill or bills providing for any constitutional amendments which may be necessary for properly carrying out the system of taxation recommended by the Commission."⁴⁷

The report of this Commission contains some very interesting and suggestive references to the taxation of corporations in general, including railroads and other transportation companies. The members of the Commission visited a number of states in which the subject of taxation had received special consideration. The advantages of such a course are thus expressed; "It visited during the month of April the following cities: Chicago, Lansing, Indianapolis, Columbus, Albany, Boston and Philadelphia. It held lengthy conferences upon the subject of taxation with public officials and others. It is impossible to overestimate the value of the information thus acquired. Had time and means permitted, several other states might have been visited with great, if not equal profit."⁴⁸

Their general impression as to the prevailing system of the *ad valorem* general property tax is thus recorded: "No system of taxation now in force in any of the States of this country is attended with wholly satisfactory results. The principles of equality and uniformity, so essential to every just revenue measure, are generally unattained. While approximately obtainable in the taxation of real property, they have little practical meaning in the taxation of personal property. Nor is the cause obscure. Real property has a fixed situs and is visible; while personal property, in many of its forms, is either invisible or easily concealed. So universally is the evasion of the law in the assessment of personal property practiced and so notorious is the fact that much the greater volume of it is unassessed, that its evasion is often regarded as a virtue rather than a vice. In few, if any, States is more than twenty-five per centum of the personal property liable for taxation listed for assessment."⁴⁹

⁴⁷ Report of the Tax Commission for the Purpose of Framing the Tax Code, St. Paul, Minn., 1902, p. 3.

⁴⁸ *Ibid*, p. 5.

⁴⁹ Report of Tax Commission, p. 6.

With reference to the taxation of personal property in their own State, they say : "It should be increased manyfold, for the amount of such property now upon the tax lists is but a fraction of what may and should be listed. With anything like a fair listing of personal property, the volume of assessed property throughout the State would be so greatly increased as to have a marked effect in reducing rates of taxation, both State and local."⁵⁰

The Commission recommends the establishment of a completely organized system of assessment embracing the township, county and State factors under the supervision of a central board of tax commissioners, three in number. The functions of these tax commissioners would be similar in nature to those of the two special tax commissioners of Indiana. In the words of the report; "Its jurisdiction will extend throughout the State. It will be given ample powers as to the assessment of property. It will be its duty, generally speaking, to see to it that all the property of the State liable to assessment is assessed according to its true value in money, so far as that is practically obtainable.

"The great office of the Tax Commission will be to counteract local tendencies to depress valuation of property. If it properly discharge its duty, all classes of property will be assessed and taxed according to a uniform rule. It may, whenever it believes the assessment made in any district is not in whole or in part in substantial compliance with law, direct the reassessment of same."⁵¹

The system at present in operation in Minnesota is much like that of Illinois and evidently experiences some of the same difficulties. "The State Board of Equalization, as at present constituted, is composed of eighteen members, each judicial district of the State having one representative thereon.

"The State Board of Equalization has unconsciously encouraged a disregard of the rule of taxation prescribed by the Constitution. Members of the board, naturally solicitous for the welfare of their respective districts, have generally sought to depress rather than to raise valuations in the counties constituting their districts. Local influences have also had their effect upon their respective members. Such a tendency always manifests itself with a body so composed, and is as true of other states as our own."⁵²

It was, therefore, proposed to practically follow the Indiana model, which had impressed the Commission so favourably that they say of it; "It is certain that through the exertions of its Tax Commission the laws of Indiana have been so shaped and modified from time to time and enforced with such wisdom and industry that a larger percentage of personal property is there assessed than in any other State." Their proposition, then, is as follows : "The bill provides for a board composed of the Governor, State Auditor, Secretary of State, Attorney-General, and the three Tax Commissioners. It will thus be in close touch with the Tax Commission, and reflect in its work the least degree of local influence."⁵³

Such was to be the new State Board of Review to take the place of the existing Board of Equalization and which the Commission was confident would secure the assessment of personal property throughout the State much more efficiently than under existing laws. Other states having similar systems are, Tennessee, Washington, Colorado, Kansas and Nebraska.

In thus proposing to bring the general system of taxation in Minnesota into line with some of the latest developments, the Commission was naturally influenced by the movement in several of the neighbouring states, especially in Michigan and Wisconsin, towards the adoption of the general

⁵⁰ Report of Tax Commission, p. 16.

⁵¹ Report of Tax Commission, p. 23.

⁵² Report of Tax Commission, pp. 25-26.

⁵³ Report of Tax Commission, p. 26.

property tax for railroads and other corporations. At the same time the Commission recognised the difficulties which beset any such attempts, and especially the great difference between ordinary private property and the possessions of the larger corporations. They evidently felt, also the force of the very strong and practical criticisms which were brought to bear upon the general property system of taxation by Professor Seligman, among others, for they quote with approval some of his views on the taxation of corporations.

Unlike most other American State Commissions, they boldly faced the question of income tax: "We have reached a period in our industrial development when incomes as a source of revenue cannot wisely be omitted. Every state has a large class of wealthy citizens who would not otherwise adequately contribute to the public burden.

"A sentiment in favor of an income tax is rapidly growing. Fair minded men of the wealthier classes recognize its justice; and the less wealthy and wage earning classes welcome it as a means for relieving them of the burden which they must otherwise unjustly bear. The higher a people's civilization, the more complex their industrial life and the greater their production of material wealth, the more appropriate becomes an income tax."⁵⁴

Nevertheless, they were constrained to adopt the general property system of taxation for all transportation corporations other than railroads. On the general question of dealing with corporations they report as follows: "One of the perplexing problems encountered by the Commission is the taxation of corporations. So far as the ordinary business corporation is concerned, there is no valid reason why it should not be taxed by the same methods which are applied in the taxation of the property of ordinary taxpayers. It is, however, manifest, that as to corporations having a quasi-public character, such methods would prove very inadequate.

"Many corporations, like railroads, telegraph, telephone, express, street car, gas, and other companies, possess franchises and privileges of great value, more or less monopolistic in character and which cannot be measured by their visible property situate within the State. Such property is intangible and cannot be adequately reached by the assessment of tangible property. It is apparent that the valuation of intangible property will always be difficult and unsatisfactory. This arises, not only from the nature of the property itself, but also from the fact that many large and wealthy companies carry on a business extending over a vast territory and embracing several, sometimes many, states. The practical difficulties attending their taxation is witnessed by the great diversity of legislative measures now in operation in the various states of the Union.

"While of the opinion that the provisions of the bill are the wisest which are permissible in the present state of public opinion, the Commission believes that with the advancement of ideas upon the general subject of taxation, a more scientific and, therefore, a more just method of taxing corporate property will be evolved. Not only are the several states frequently wide apart in methods of taxation of such property, but confusion prevails also in the laws of each state upon this subject. Not only so, but the methods in vogue in this country are wide apart from those in force in the most advanced European States, relating to like classes of property. Any system of taxation prescribed for transportation or transmission companies which depends in part upon interstate earnings or upon valuations of

⁵⁴ Report of Tax Commission, p. 47.

property situate without the State contributing to such earnings, is at best unsatisfactory, and will continue so until those earnings and valuations are ascertained and apportioned to the several states by Federal authority. It is impracticable for a state to ascertain such facts by investigations conducted by its own agents. It therefore, depends largely and often wholly upon the reports of the respective companies whose property is to be taxed. Without impugning the accuracy of such reports, it is obvious that no state should be wholly, or to a large extent, dependent upon them. A single instance suffices for purposes of illustration. An express company, engaged in a great variety of business, many features of which are quite distinct from that of expressing commodities, whose operations are extended over a great part of this country and into foreign countries presents so complicated a subject that any state which undertakes a thorough investigation for purposes of taxation would incur an expense greatly in excess of any reasonable tax which it might justly impose. The same difficulties, although less marked, would be confronted in similar investigations of other interstate companies. A federal body, like a department of commerce, authorized to fully investigate all quasi-public companies engaged in interstate business, and prepared to do so by suitable agencies, would be able by annual investigation to furnish all the states, without expense to them, reliable and sufficient data for taxation purposes. It is a subject of such pressing importance that the Legislature of this State and other states should memorialize Congress to adopt at the earliest practicable moment the necessary legislation, either of the character above suggested, or otherwise.

"We adopted in the early history of the State the policy of taxing railroad companies upon their gross earnings. It is entirely a commendable policy, so far as simplicity and expense of administration are concerned; but few will claim for it equality and uniformity either as between the property so employed and the great mass of other property in the State, or between the properties of the several railroad companies. We now refer to it merely to emphasize the impropriety of extending that method of taxation under existing conditions, to other classes of public service corporations. It is desirable and just that all quasi-public companies be taxed by the same rule. Regardless of the question of power, it did not appear to the Commission that the reasons urged in support of the demand that certain other companies be taxed by the gross earnings method were adequate.

"In framing the provisions of the bill relative to the classes of companies above named, the Commission has been guided to a great extent by those statutes of sister states which have been reviewed and sustained by the Supreme Court of the United States."⁵⁵

In following the method of the adjoining states, and particularly Indiana, the Commission adopted the following policy with reference to telegraph, telephone, express, sleeping car, freight line and equipment companies:

"Every company shall, by an officer or agent thereof, annually make and deliver to the State Auditor a statement with reference to the first day of April immediately preceding, verified by the oath of the officer or agent making the same, showing:

1. The name of the company.
2. The nature of the company, whether a person, partnership, joint stock association or corporation; if a joint stock association or corporation, under laws of what state or country organized.

⁵⁵ Report of Tax Commission, pp. 36, 37, 38.

3. The location of its principal office.
4. The name and post office address of the president, secretary, treasurer and general manager.
5. The name and post office address of the chief officer or managing agent in this State.
6. The number of shares of its capital stock.
7. The par value and the market value, or, if there be no market value, the actual value of its shares of stock.
8. The amount of the funded or bonded debt and the value thereof.
9. The amount of dividends, if any, paid upon each share of its stock during the twelve months immediately preceding the first day of April.
10. A detailed statement of the real estate owned by it situated within this State, where situate and the value thereof.
11. The total value of its real estate situate without this State.
12. A detailed statement of its personal property situate within this State, classified and valued so far as may be according to the statement provided for in section 40 of this Act, new and appropriate classification to be made when necessary; the total value of its personal property situate within this State.
13. The total value of the personal property owned by the company and situate outside this State.
14. A statement showing its gross receipts arising (1) from business done wholly within this State, (2) from business done partly within and partly without this State, and (3) from business done wholly without this State.
15. In case of an express company, the total length of the lines and routes over which it transports personal property of any kind, (1) within this State, (2) without this State, and (3) within each of the counties, townships and cities within this State.
16. In case of telegraph and telephone companies, the statements shall also show the total length of their respective lines (1) within this State, (2) without this State, and (3) within each of the counties, townships and cities within this State.
17. In the case of sleeping car, freight line and equipment companies the statement shall also show the total length of the lines of railroad over which they respectively do business or operate their cars (1) within this State, (2) without this State, and (3) within each of the counties, townships and cities within this State, naming the lines and the respective companies owning the same.
18. Every company, as defined in section 84 of this Act shall also furnish such other facts and information as the State Auditor, Tax Commissioner, or State Board of Review may require." (Report of Tax Commission, pp. 100, 101.)

The Auditor, upon receiving such statement, will deliver the same to the Tax Commission, which is to make examination thereof and may, when necessary, call for additional statements and information. The Tax Commission having revised the statement is to place the same before the State Board of Review. The State Board of Review is authorized to require the attendance of any officer or agent of any such company before it, with or without books and papers, and furnish it with any further information which it may require. Stringent provisions are made for the enforcement of such reports. It is made the duty of the State Board of Review to assess the property of each of said companies.

Each corporation will be taxed a full rate representing the sum of the average municipal, county, and state rates, but the whole payment will be made to the State and be employed, as in the case of railroad taxes, wholly for State purposes. Street railways, whether urban or interurban, are assessed in much the same way, but their value is distributed to the various municipalities in which they are situated or through which they run, and they are to be taxed locally.

Notwithstanding its practical adoption of the General Property Tax, except in the case of railways, the Commission regard with favour a more scientific system of taxation which would distinguish the sources of revenue for state and local purposes. This was already partly accomplished in the application of the whole revenue from railroad, insurance, telegraph and telephone companies for state purposes, and the proposed measure of the Commission would add the taxes from other corporations. The sources of state income are given in the following table covering the years 1901-1902.

Receipts into the Treasury for the Fiscal Year ending July 31.

	1901	1902
Taxes :		
State, general	\$1,016,397 79	\$1,042,829 84
State, school and university	758,126 10	798,759 57
Railroad companies	1,439,349 24	1,659,296 94
Telegraph and telephone companies	27,190 70	79,601 23
Insurance companies	201,327 77	216,515 68
Express companies	8,460 45	18,893 91
Sleeping car companies	371 28	481 66
Freight line companies	2,114 00	1,810 00
Tonnage on vessels	9,105 93	9,791 58
Inheritances		6,077 01
Departmental earnings, fees, fines and miscellaneous receipts	633,097 81	625,203 55
State institutions, receipts and earnings (including prison revolving fund, binder twine collections, federal aid to univ., soldiers' home, etc.)		
	879,832 94	958,954 05
Sales of timber on state lands	242,706 01	324,991 60
Mineral leases and contracts	13,529 00	26,019 00
Royalty on iron ore	27,030 29	10,561 80
Principal paid on land contracts	660,450 14	783,773 97
Principal paid on school district, county, city, township and village bonds	198,375 11	186,352 09
Repayment of seed grain loans	1,389 15	21,403 91
Repayment of Russian thistle loans		103 05
Interest on land contracts	311,867 62	325,561 56
Interest on trust fund investments	208,525 00	262,337 50
Interest on school district, county, city, township and village bonds	70,490 60	68,141 86
Interest on bank deposits	22,110 09	24,982 58
Redemption of bonds		53,000 00
	\$6,731,847 02	\$7,505,443 94

(Report of the Auditors of State to the Legislature of Minnesota for fiscal years 1901 and 1902, St. Paul, Minn., 1903, pp. 48, 54.)

It will be observed that the revenue derived from railroads amounts to nearly as much as that from the general property of the State for general and educational purposes. The addition proposed by the Report of the Commission would not, however, enable the Government to dispense with direct taxes

throughout the State. "The Commission was early impressed with the importance of arriving at some method of taxation whereby taxes for State, as distinguished from local purposes, could be raised otherwise than by a general property tax. Many reasons support such divorcement. Chiefly, it is desired because it would permit the relegation to local government of many questions of taxation, and completely eliminate equalization by a State Board. It would then be a matter of indifference to one county whether the assessment in another was high or low, or whether a certain class of property was taxed or exempted in such other county.

"The history of the State Board of Equalization shows a constant tendency to depress valuations. A sort of local jealousy or zeal for local interests begets a spirit on the part of each member of the board to keep down the valuations of his own district.

"It is obvious that such division can be accomplished only by one of two methods.

1. The raising of revenue for State purposes by other means than an *ad valorem* taxation; or,

2. The distribution upon an equitable basis of the burden of such revenue among the several counties of the State."⁵⁶

The first they consider hardly feasible under present conditions in Minnesota. They, therefore, incline to the second, though its difficulty and complexity were admitted.

That the Tax Commission did not regard their various recommendations as anything more than a step in advance towards a more perfect system of taxation than at the time prevailed throughout the State, is freely admitted in the following statement, towards the close of their Report: "Without entering into an elaborate discussion of the subject, it may here be properly suggested that we are as yet far from the last act of legislation upon any one of the following subjects.

- "1. The source of revenue for State purposes and the manner of raising such revenues.

2. The appropriate method for the taxation of public service corporations, embracing transportation, gas, heat, light, power and other companies.

3. The appropriate method of taxing mining companies.

4. The measure of local option which shall be permitted to counties and municipalities in the raising of revenue for local purposes.

5. The taxation of incomes."⁵⁷

The Tax Code, which was framed and submitted by the Commission, in the shape of a bill, did not pass the Legislature.

The fate of the measure is thus described in the biennial report of the Auditor of State for 1903. "In my report to the Legislature for the biennial period ending July 31st, 1900, considerable space was devoted to showing the necessity for tax revision. The Legislature of 1901 provided for the creation of a Tax Commission, and said Commission's report was considered at an extra session of the Legislature in 1902. The Tax Code reported by the Commission was elaborate and comprehensive, and when first submitted met with great public favour. But later, after the measure had been more thoroughly discussed, some of its provisions were considered too drastic and too wide a departure from the old established usages and custom, and a strong opposition to the enactment of the code into a law was developed within and without the Legislature. The outcome was the defeat of the bill as

⁵⁶ Report of Tax Commission, pp. 49-50.

⁵⁷ Report of Tax Commission, pp. 54-55.

a whole, and the adoption (substantially) of that portion of the Tax Commission's Report which pertained to the collection of taxes levied against real estate. Several constitutional amendments relating to taxation were enacted and submitted to the people of the State at the recent general election, but unfortunately, owing to lack of interest on the part of those voting at the election, all of the amendments were defeated."

He then refers to the necessity for continuing the agitation with the hope of ultimate success: "A further attempt should be made to secure for the Legislature, by proper constitutional amendment, much larger powers of legislation than it now possesses. Until such relief is afforded, the Legislature can, at best, accomplish only very unsatisfactory results."⁵⁸

One of the chief difficulties in the way of a comprehensive or scientific system of taxation in many of the American States is the limitation placed upon the powers of the Legislature in dealing with such matters as taxation. Many of the antiquated and anomalous features of the taxation of corporations are, due to constitutional requirements as to outward and mechanical uniformity in the treatment of taxation. This cramping restriction on the part of the constitution is referred to very particularly in the report of the Auditor of State, as indicated in the last quotation.

It is necessary in the American system to submit all proposed changes in the Constitution to a popular vote, or plebiscite, and in the State of Minnesota, in the case of proposed measures affecting taxation, the Constitution requires that before a bill passed by the Legislature can come into force, it must be submitted to the people and ratified by a majority of the popular vote. The Legislature, in 1902, submitted to the people an amendment to the Constitution, on the subject of taxation, but it failed to be ratified. Similarly, in 1901, an amendment to the existing law with reference to the taxation of railroads, raising the rate of taxation on gross income from three to four per cent., was passed by the Legislature, but in 1902 it failed of being ratified by the people. It was passed again in 1903 to be submitted to the people in 1904. The chief features of this measure will indicate the latest expression of the Legislative will on the subject of railroad taxation.

"An Act providing for the taxation of railroad properties, the collection of such taxes and repealing acts inconsistent therewith.

"Section 1. Every railroad company owning or operating any line of railway situated within, or partly within, this State, shall during the year 1905, and annually thereafter pay in to the treasury of this State in lieu of all taxes and assessments on all property within this State, owned or operated for railway purposes by such company, including equipment, appurtenances, appendages and franchises thereof, a sum of money equal to four per cent. of the gross earnings derived from the operation of such line of railway within this State; and the annual payment of such sum shall be in full and in lieu of all other taxes and assessments upon the property and franchises so taxed. The lands acquired by public grant shall be and remain exempt from taxation until sold or contracted to be sold, or conveyed, as provided in the respective acts whereby such grants were made or recognized.

"Section 2. The term 'gross earnings derived from the operation of such line of railway within this State,' as used in section 1 of this Act is hereby declared and shall be construed to mean, all earnings on business beginning and ending within the State, and a proportion, based upon the proportion of the mileage within the State to the entire mileage over which such business

⁵⁸ Report of Auditor of State, 1903, pp. 6-7.

is done, of earnings on all interstate business passing through, into or out of the State.

"Section 3. All acts and parts of acts not inconsistent herewith regulating the payment, collection, time of payment, enforcement or report involving the amount of taxes upon the gross earnings of railroad companies within this State, or providing penalties for the non-payment of such taxes, are hereby made applicable to this Act so far as may be; and all acts and parts of acts inconsistent with the provisions of this Act are hereby repealed.

"Section 6. This Act shall be submitted to the people of this State for their approval or rejection at the next general election for the year 1904."

In 1904 the Act was ratified by popular vote and became law.

The Interviews of the Ontario Commission with Governor Samuel R. Van Sant, Mr. S. G. Iverson, State Auditor, and, also with Mr. C. F. Staples, a member of the Railroad and Warehouse Commission, threw much light upon the workings of the existing system in Minnesota and upon the changes which were being advocated in the Legislature and throughout the State.

Governor Van Sant is an ardent advocate of tax reform, which he is confident will yet be adopted by the people of Minnesota. He also favours the increased rate upon the gross earnings of railways. He strongly supports, however, the existing method of taxing railways on their gross earnings. The State Auditor also supported the system. As he put it; "We believe in this State that the gross earnings system is a very satisfactory method of taxing the railways." And again; "Our people are especially well satisfied with the system of taxation on gross earnings, because they think it is the fairest way, all things considered. Under the ad valorem system, a railway runs through a certain county, it touches four townships in that county, there may be twenty townships, outside the four, which are contributing to the business of that road, perhaps even more than the four but for local purposes those twenty townships outside would not be represented in the assessment of that property and would get no revenue from it. There are counties in this State which have not a foot of railroad, but they are contributing just the same to the business of the road. Then, if the road is assessed under the ad valorem system, there is an eternal turmoil, the township assessor gets a crack at it, the county board has to be right, and it is the business of the railway company to see that they are friendly. Then it comes to the State Board, and of course the railway companies will try to elect the man who will treat them most leniently. This all makes trouble for the public and for the railroads. Now under the gross earnings system we collected two million dollars last year with little expense or trouble either to the State or the railroads. And every dollar of taxable property in this State is benefitted to that extent, whether a county or a township has a railroad or not, the amount paid in to the Treasury relieves all the properties of the State. We have here a large through business, because of our peculiar situation; we have great lines like the Sault line running up into new country, the Northern Pacific, the Northwestern, the Milwaukee, running through the State, and we get a great amount of business."⁵⁹

When asked if he would advocate applying the gross earnings system to the taxation of all other forms of property, he replied; "We have two hundred and seventy-five thousand personal property tax payers in Minnesota, and we have perhaps more real property owners; you can see that we simply could not get at it. We are not seeking new and cumbersome methods of taxation so long

⁵⁹ Ont. Com. Interviews.

as we can get along without them. The gross earnings system is firmly imbedded in our State and in the minds of the people, and until the people become convinced that they are getting the worst of it they don't wish to change from the present condition of affairs."⁶⁰

According to Governor Van Sant the present assessment of real and personal property throughout the State will average about forty per cent. of its whole value, showing the extent to which Minnesota had followed the example of the Western States in the undervaluation of property for taxation purposes.

The present method and rates of taxation upon other corporations than railroads were given by Mr. Iverson as follows: "Foreign insurance companies pay two per cent. on the gross premium receipts collected in the State, in addition to the taxes on their personal property. Domestic Insurance Companies pay two per cent. on gross premium receipts and taxes on real property. Telephone companies pay three per cent of gross earnings in lieu of all other taxes. These taxes are all paid directly into the State Treasury, and they are not distributed to the local municipalities. Express companies pay six per cent. of their net receipts, according to their own sworn returns."⁶¹

As noted in the case of other States where income, direct or capitalized, is made the virtual basis of taxation, though the railroads and several other corporations be taxed upon gross or net income in Minnesota, yet out of respect to the Constitution this is treated as a tax upon general property. As Mr. Iverson states; "Under our Constitution the tax must be a tax upon property, although the Legislature and the people have sanctioned a substituted form of taxation for certain classes of property, as already explained."

Mr. Iverson showed at some length how, from the study of the market values of stocks and bonds of the railways in Minnesota, he has arrived at a valuation of the railways of the State on the same basis as other property, that is, at one-third of their full valuation, which showed them to be assessable at about a hundred million dollars. With the total tax rate on general property taken at two and a half per cent., this would mean a tax on the railroads of about two million, five hundred thousand dollars. Yet the tax upon gross earnings amounted to little more than one million dollars. On this showing the agitation for an increased tax upon the gross earnings of railroads began and, as already noted, acts were passed by the Legislature to raise the rate from three to four per cent.

Mr. Staples, one of the three members of the Railroad and Warehouse Commission, upon which devolves the duty of obtaining and verifying the reports of the gross earnings of the railroad companies, strongly supported the gross earnings system of taxation for railways. In explanation of the working of the system he stated that the Commission prescribes a uniform system of book-keeping, which the railway companies operating in Minnesota must adopt in making their reports. In verifying these reports, "we send our experts into their offices to check up any month they may feel disposed to select. We require the railways to conform to such system as will meet our necessities. We require two accounts, one for purposes of taxation and one for the general annual report of the company."⁶²

The arrangement of the details as to the blanks upon which the reports are made is usually a matter of conference with the railroad companies, the result being that, both as to taxation and the regulation rates, there is little friction between the Commission and the railway companies. Mr. Staples

⁶⁰ Ont. Com. Interviews.

⁶¹ Ont. Com. Interviews.

⁶² Ont. Com. Interviews.

gave several examples illustrating the mutual confidence and harmony in operation. In contrasting the attitude of the railways towards the *ad valorem* as compared with the gross earnings system, he said, "I think the railways are more afraid of the local assessors and boards than they are of one comprehensive Commission which covers the whole subject and before whom they can appear and who are more conversant with the railway problems."

As to the composition of the Railroad and Warehouse Commission, Mr. Staples said: "There are three members of the Commission, elected by the people for four year terms; the terms are so arranged that the expirations fall on different years, and there is a tendency in this State to re-election of the Commissioners; for the public realize that these men have to meet and match with the cleverest attorneys the railways can secure, men who have devoted a life time to their special line of pleading."⁶³

Mr. Staples pointed out very clearly the distinction between the Minnesota system of arriving at gross earnings, upon the proportion of business actually done in the State, and the more common method of simply finding the gross earnings throughout the whole of a railroad system and then taking the proportion of them which the mileage operated in the State bears to the whole mileage system. In Minnesota, "we take every shipment by itself over each line, no matter where it originates; if it goes into Minnesota or through Minnesota, even if only one mile, the tax is the proportion of that one mile to the total mileage of the shipment. Take as illustration a shipment over 180 miles of road, of which seven miles is in Minnesota; the assessment would be 7-180 of the total charges. In its report the railway must show the entire gross earnings of the entire system, but of course if a shipment originated in Winnipeg and went down, say 100 miles, not touching Minnesota, we have nothing to do with that for taxation purposes. We only assess those shipments in which we are interested, that is, those shipments which touch Minnesota."⁶⁴

The other system had been proposed for adoption in Minnesota in the amended act submitted to the people in 1902, but it failed to carry, and the second act submitted to the people does not propose this change. Mr. Staples gave an illustration from the Great Northern Railroad as to what the difference of system would mean. The entire mileage of the Great Northern was about 4,500, and the portion in Minnesota about 500 miles. "If the entire system is 4,500 miles, upon the basis that we should take the mileage within the State, in its proportion to the total mileage, it will be as 500 is to 4,500, or 1-9. This is the system which it was proposed to adopt, but which failed to carry. It is very material which system shall prevail. After it was determined that this system would fail of adoption, the Great Northern took over, under their own name, another road in this State which amounted to 240 miles. Had this been done before this question came up, and had the proposed system been adopted, it would have given us a larger percentage. The inference is that they did not want to own a larger mileage than was necessary where they could have other companies locally, thus making the basis for division very much less. I merely cite this instance to show that by manipulation you can make this a very unsatisfactory system."⁶⁵

Mr. Staples also discussed with the Ontario Commission the subject of the regulation of railway rates. Incidentally he stated that there was no tendency to increase railway rates on account of heavier taxation.

The following table gives the gross income, the operating expenses,

⁶³ Ont. Com. Interviews.

⁶⁴ Ont. Com. Interviews.

⁶⁵ Ont. Com. Interviews.

taxes, etc., of the Minnesota railroads for the year ending June 30th, 1903. Although in this no taxes are given for the Canadian Northern, yet in the special report of that line to the Railroad and Warehouse Commission for 1903 the amount of taxes paid on gross earnings is given as \$974.25. As a new road it still pays only one per cent. of income tax upon the present law. It will not pay the full three per cent. until 1911. The other road related to Ontario is the Minneapolis, St. Paul and Sault St. Marie, which is controlled by the Canadian Pacific Railroad.

INCOME ACCOUNT OF OPERATING ROADS FOR YEAR ENDING JUNE 30, 1903.

Name of Railroad.	Gross Earnings.	Operating Expenses.	Income From Operation.	Total Income Including Income from other Sources such as Stock Bonds, etc.	Taxes.	Net Income.
Canadian Northern Ry.....	\$ 134,843	\$ 71,095	\$ 63,748	\$ 63,748		\$ 63,748
Chicago B. & Q. R. R.....	61,647,596	37,742,439	23,905,157	24,252,689	\$ 1,747,388	13,395,758
Chicago Great Western Ry.....	7,818,917	5,856,769	1,962,148	1,966,421	203,897	1,601,934
C. M. & St. Paul Ry.....	47,662,737	30,127,059	17,534,678	18,044,708	1,470,114	10,473,258
Chicago, St. Paul, M. & O. Ry.....	12,111,314	7,605,864	4,505,450	4,735,629	446,396	2,815,222
Chicago & Northwestern Ry.....	50,787,229	32,255,061	18,532,168	20,171,444	1,836,495	5,513,431
Chicago, R. I. & P. Ry.....	36,309,492	23,049,554	13,259,938	15,518,796	1,089,695	7,289,781
Dubuque & S. C. Ry. (Ill. Cent.).....	4,122,561	3,516,691	605,870	623,776	142,504	
Duluth, M. & N. Ry.....	5,116,530	1,901,284	3,215,246	3,235,282	131,282	2,396,655
Duluth & Iron Range R. R.....	6,081,879	2,252,635	3,779,244	3,819,052	181,562	2,566,171
Duluth & Northern Minn. Ry.....	170,032	132,388	37,644	37,644	2,914	34,730
Duluth Terminal Ry.....	36,142	16,785	19,357	19,357		3,000
Great Northern Ry.....	37,088,092	17,653,792	19,434,300	21,146,421	1,345,076	12,808,608
Iowa Central Ry.....	2,441,566	1,944,848	496,716	608,597	81,717	3,371
Minneapolis Eastern Ry.....	71,950	44,833	27,067	27,067	2,097	14,470
Minneapolis Western Ry.....	62,446	36,896	25,550	30,734	1,903	3,830
Minneapolis & St. Louis Ry.....	3,417,375	1,984,082	1,433,293	1,518,072	119,275	511,817
Minneapolis, St. Paul & S. S. M.....	7,338,039	3,904,764	3,433,275	3,459,754	394,938	1,664,497
Minnesota & North Wisconsin Ry.....	209,608	178,947	30,661	30,661	1,704	8,746
Minnesota & International Ry.....	658,688	465,669	193,019	193,613	12,055	34,829
Northern Pacific Ry.....	46,161,150	24,076,138	22,085,012	23,222,562	1,421,433	11,745,889
Red Lake Transportation Co.....	13,176	13,784	*608	*608		
Willmar & Sioux Falls Ry.....	1,504,135	962,963	541,172	544,821	75,995	286,526
Winona Bridge Co.....	26,328	4,211	22,117	22,117	559	2,357
Wisconsin Central Ry.....	6,667,741	4,225,617	2,442,124	2,482,518	234,291	90,823
Wisconsin, M. & P. Ry.....	625,452	381,485	243,967	243,967	18,720	66,846
Totals.....	\$238,235,018	\$200,406,703	\$137,828,315	\$146,049,142	\$10,962,005	\$73,396,297

*Deficit.

(Report of the Railroad and Warehouse Commission of Minnesota for year ending Nov. 30th, 1903. Minneapolis, 1904. P. 152.)

MAINE.

The system of railway taxation in Maine is generically allied to that of Minnesota, inasmuch as it takes the form of a license tax based upon gross earnings. In most of its details, however, it differs very considerably from the system as operated in Minnesota. It is rather interesting to note how the same system, even when a simple one, may vary in its applications, between two states. Thus, while in Minnesota the gross earnings are determined on the basis of the actual business done within the State, including the proportionate share of each shipment which originates or terminates within the State, in Maine the gross earnings for taxation are taken as that proportion of the total earnings of the whole railroad system which is measured by the ratio of the mileage in Maine to the mileage of the whole system. In Minnesota the tax is graduated according to the number of years during which the road has been in operation; in Maine it is graduated according to the earnings per mile of the line. In Minnesota the tax on gross earnings is in lieu of all other taxes; in Maine, in addition to the tax on

gross earnings, the railroads pay to each city or town through which they run, an ordinary local tax upon their buildings and upon all real estate outside of the track allowance or right of way. In Minnesota the whole of the tax on gross earnings goes to the State and is not distributed to the municipalities; in Maine there is distributed to the cities and towns one per cent. of the value of the stock of any railroads in the State held by any of the residents of these cities or towns. In Maine there is also an additional assessment levied upon the gross earnings of the railroads to meet the expenses of the Railroad Commission, which amount to about \$12,400 annually.

Similar methods of taxation are applied to other transportation corporations, such as street railways, telegraph and telephone lines and express companies, no special notice being taken of private car companies.

The more important sections of the law, embodying the system of taxation for railroads and allied corporations, are as follows:

TAXATION OF RAILROAD COMPANIES.

"Every railroad company, incorporated under the laws of the state, or doing business therein, shall annually, between the first and fifteenth days of April, return to the secretary of state under oath of its treasurer, the amount of the capital stock of the corporation, the number and par value of the shares, and a complete list of its shareholders, with their places of residence and the number of shares belonging to each on said first day of April. The returns shall also contain a statement of the whole length of its line within the state, and the assessed value in each town of its stations and other property taxed by municipalities.

"Every corporation, person, or association, operating any railroad in the state under lease or otherwise, shall pay to the treasurer of state, for the use of the state, an annual excise tax, for the privilege of exercising its franchises and the franchises of its leased roads in the state, which, with the tax provided for in section four of chapter nine, is in place of all taxes upon such railroad, its property and stock. The buildings of every railroad corporation or association, whether within or without the located right of way, and its lands and fixtures outside of its located right of way, are subject to taxation by the cities and towns in which the same are situated, as other property is taxed therein, and shall be regarded as non-resident land. There shall be apportioned and paid by the state from the taxes received under this and the five following sections and under section thirty-one, to the several cities and towns in which, on the first day of April in each year, is held railroad stock of either such operating or operated roads exempted from other taxation, an amount equal to one per cent. on the value of such stock on that day, as determined by the board of state assessors; *provided, however*, that the total amount thus apportioned on account of any railroad, shall not exceed the sum received by the state as tax on account of such railroad; and *provided further*, that there shall not be apportioned on account of any railroad and its several parts, if any, operated by lease or otherwise, a greater part of the whole tax received from such railroad and its several parts, than the proportion which the amount of capital stock of such railroad and its several parts owned in this state, bears to the whole amount of the capital stock of said railroad and its several parts.

"The amount of such annual excise tax shall be ascertained as follows: The amount of the gross transportation receipts as returned to the railroad

commissioners for the year ending on the thirtieth day of June preceding the levying of such tax, shall be divided by the number of miles of railroad operated, to ascertain the average gross receipts per mile; when such average receipts per mile do not exceed fifteen hundred dollars, the tax shall be equal to one-half of one per cent. of the gross transportation receipts; when the average receipts per mile exceed fifteen hundred dollars and do not exceed two thousand dollars, the tax shall be equal to three-quarters of one per cent. of the gross receipts; and so on increasing the rate of the tax one-quarter on one per cent. for each additional five hundred dollars of average gross receipts per mile or fractional part thereof, *provided* that the rate shall in no event exceed four per cent. When a railroad lies partly within and partly without the state, or is operated as a part of a line or system extending beyond the state, the tax shall be equal to the same proportion of the gross receipts in the state, as herein provided, and its amount shall be determined as follows: the gross transportation receipts of such railroad, line or system, as the case may be, over its whole extent, within and without the state, shall be divided by the total number of miles operated to obtain the average gross receipts per mile, and the gross receipts in the state shall be taken to be the average gross receipts per mile, multiplied by the number of miles operated within the state.

"Any corporation, person or association aggrieved by the action of the board of state assessors in determining the tax, through error or mistake in calculating the same, may apply for abatement of any such excessive tax within the year for which such tax is assessed, and if, upon re-hearing and re-examination, the tax appears to be excessive through such error or mistake, the board of state assessors may thereupon abate such excess, and the amount so abated shall be deducted from any tax due and unpaid, upon the railroad upon which the excessive tax was assessed; or, if there is no such unpaid tax, the governor shall draw his warrant for the abatement, to be paid from any money in the treasury not otherwise appropriated.

"If the returns required by law, in relation to railroads, are found insufficient to furnish the basis upon which the tax is to be levied, the railroad commissioners shall require such additional facts in the returns as may be found necessary; and until such returns are so required, or, in default of such returns when required, the board of state assessors shall act upon the best information they may obtain. The railroad commissioners shall have access to the books of railroad companies, to ascertain if the required returns are correctly made; and any railroad corporation, association, or person operating any railroad in the state, which refuses or neglects to make returns required by law, or to exhibit to the railroad commissioners its books for the purposes aforesaid, or makes returns which the president, clerk, treasurer, or other person certifying to such returns knows to be false, forfeits not less than one thousand, nor more than ten thousand dollars, to be recovered by indictment, or by an action of debt in any county into which the railroad operated extends.

"Every railroad company operating any railroad in the state shall pay to the treasurer of state a tax, in addition to all other taxes provided by law, which shall be such a sum as shall be its proportional part of the amount of the salary, and salary of clerks, and expenses of the board of railroad commissioners as provided in section forty-eight of chapter fifty-one, to be determined by the board of state assessors on or before the first day of April of each year, according to the gross transportation receipts of any such railroad company in this state, as returned to the railroad commissioners for the year

ending June thirtieth preceding the levying of such tax. The board of state assessors shall report the same to the treasurer of state, who shall forthwith give notice thereof, to every railroad company operating any railroad in this state, and said tax shall be payable on the first day of July next after the levy is made.

“Street railroad corporations and associations are subject to the preceding sections and to section four of chapter nine, except that the annual excise tax shall be ascertained as follows: When the gross average receipts per mile do not exceed one thousand dollars the tax shall be equal to three-twentieths of one per cent. on the gross transportation receipts; and for each thousand dollars additional gross receipts per mile, or fractional part thereof, the rate shall be increased three-twentieths of one per cent.

“Every corporation or person owning or operating palace or other cars, for which extra compensation is charged for riding therein, over any of the railroads in the state shall annually on the first day of September, pay to the treasurer of state for the use of the state an annual excise tax for the privilege of exercising its franchises in the state, equal to four per cent. of its or his gross receipts from business done wholly in the state for the year ending June thirtieth next preceding.

“Every such corporation or person shall by its properly authorized agent or officer, annually on or before the first day of August, make a return under oath to the board of state assessors stating the amount of such gross receipts; whereupon the board of state assessors shall on or before the fifteenth day of said August assess the tax herein provided and forthwith certify the same to the treasurer of state, who shall thereupon notify said corporations or persons; said tax shall be paid into the state treasury on or before the first day of September following, and is in place of all local taxation upon the cars and equipment of said corporations or persons used in carrying on business in the state.

“TAXATION OF TELEGRAPH AND TELEPHONE COMPANIES.

“Every corporation, association or person operating in whole or in part a telephone or telegraph line for toll or other compensation within the state shall annually, between the first and fifteenth days of April, return to the secretary of state, under oath of its treasurer, if a corporation, the amount of the capital stock of the corporation, the number and par value of the shares, and a complete list of its shareholders resident within the state, with their places of residence, and the number of shares belonging to each on said first day of April; if a person or association, the owner or owners of one of them shall annually make a return under oath to the secretary of state, between the first and fifteenth days of April, of the names and residences of the owner or owners and the relative interest each owner has in any such association on the first day of April. The returns shall also contain a statement of the assessed value in each town of the real estate of such corporation, association or person used solely for the conduct of a telephone or telegraph business, and taxed by any municipality, and the gross receipts from business done wholly within the state for operating such business during the preceding year ending April first.

“Every corporation, association or person operating in whole or in part, a telephone or telegraph line within the state for tolls or other compensation, shall pay to the treasurer of state for the use of the state an annual excise

tax for the privilege of conducting such business within the state which tax, with the tax provided for in section forty-one, is in place of all taxes upon the property of such corporation, association or person employed in such business, and of all taxes upon the shares of the capital stock of any such corporation.

“The amount of such annual excise tax shall be ascertained as follows: when the gross receipts from business wholly done within this state, for the year for which the tax is assessed on such corporation, association or person in the operation of such business exceed one thousand dollars and do not exceed five thousand dollars, the tax shall be one and one-fourth per cent of such gross receipts; when such gross receipts exceed five thousand dollars and do not exceed ten thousand dollars, the tax shall be one and one-half per cent. of such gross receipts; when such gross receipts exceed ten thousand dollars and do not exceed twenty-five thousand dollars, the tax shall be one and three-fourths per cent. of such gross receipts; when such gross receipts exceed twenty-five thousand dollars and do not exceed fifty thousand dollars, the tax shall be two per cent. of such gross receipts, and so on increasing the rate of the tax one-quarter of one per cent. for each additional twenty-five thousand dollars, or fractional part thereof, of such gross receipts, *provided* that the rate shall in no event exceed four per cent of such gross receipts.

“The excise tax collected under the preceding sections shall be in lieu of all taxes upon any corporation therein designated, upon its shares of capital stock and its property used in the conduct of its telephone or telegraph business, including the poles, wires, insulators, office furniture, batteries, instruments, telegraphic and telephonic apparatus, telephones and transmitters used under license or lease or owned by such corporation, association or person; *provided, however*, that the real estate and also personal property not hereinabove exempted, owned by such corporation, association or person, shall be taxed in the municipality in which the same is situated; but the amount of the tax assessed upon such real estate if owned and actually used by such corporation, association or person in the transaction of their business shall be deducted by the board of state assessors from the tax laid hereunder. The assessment of taxes on such real estate shall be legal, whether assessed as resident or non-resident property.

“TAXATION OF EXPRESS COMPANIES.

“Every corporation, company or person doing express business on any railroad, steamboat or vessel in the state, shall, annually, before the first day of May, apply to the treasurer of state for a license authorizing the carrying on of said business; every such corporation, company or person shall annually pay to the treasurer of State two per cent. of the gross receipts of said business for the year ending on the first day of April preceding. Said two per cent shall be on all said business done in the state, including a proportional part on all express business coming from other states or countries into this state, and on all going from this state to other states and countries, *provided, however*, that nothing herein applies to goods or merchandise in transit through the state.

“The taxes assessed upon express corporations, companies and persons as aforesaid, is in place of all local taxation, except that real estate owned by such corporations, companies or persons, shall be taxed in the municipality where the same is situated, as non-resident real estate, but the amount of taxes assessed upon such portion of real estate owned and actually used by

them in the transaction of their business shall be deducted by the board of state assessors from the tax hereinafter provided." ⁶⁶

A Board of State Assessors was created in 1891, "consisting of three members, not more than two of whom shall be taken from the same political party and chosen by the Legislature by joint ballot of the senators and representatives in convention, for a term of six years." As usual in the majority of the States, this board has both a general and a special function in connection with assessment and taxation. On the one hand, it constitutes a board of equalization for the adjustment of municipal assessments as a basis for the levying of the State and County taxes and the apportioning of the State taxes on this basis to the several towns or ultimate municipalities. And, on the other hand, it has original jurisdiction in assessing all taxes upon corporate franchises, including railroad and other corporations covered by the sections of the tax laws above cited. The returns, however, of gross revenue upon which the steam and electric railroad taxes are levied are obtained from a separate board of Railroad Commissioners. This board prescribes to the railroads a form of report, following closely that adopted by the Interstate Commerce Commission, and intended to secure uniformity of returns throughout the New England States.

The total revenue derived from the corporation taxes for the last two years is given as follows:— ⁶⁷

	1902	1903
Steam railroads	\$323,983	\$ 375,808
Street railroads	12,817	12,838
Telephone companies	16,929	20,122
Telegraph companies	3,072	3,200
Express companies	9,787	10,794
Palace car companies	638	772
General corporation taxes	52,700	86,930
Savings banks	537,720	485,046
Trust and banking companies	22,663	37,174
Total	\$980,313	\$1,032,687

Of these amounts it must be remembered that a portion is returned to the municipalities in the shape of the one per cent. on the stock held by their residents. This applies to the taxes collected from railroads, both steam and electric, and from telegraph and telephone companies.

The total amounts assessed as real estate to the railroad and street car companies by the municipalities of the state are:— ⁶⁸

Railroad Companies	\$3,260,713
Street Car Companies	593,140

The returns are not furnished for the individual railroads.

The return to each municipality of one per cent. of the domestic railroad, street car, telegraph and telephone stock held by its citizens, appears a somewhat anomalous proceeding, which is due to historic conditions. Its

⁶⁶ Report of the Board of State Assessors of the State of Maine, 1903, Appendix Laws Relating to Taxation, pp. 10-19.

⁶⁷ State Assessors' Report, p. VI.

⁶⁸ State Assessors' Report, p. 153.

expediency is dealt with in the Massachusetts Report of 1897. Evidently the idea was that since the general stocks and securities owned by the citizens were taxable under personal property, it would not be fair if, when the citizens happen to hold shares in certain domestic companies which were specifically taxed by the State, and the shares of which were therefore exempt, the municipality should lose the benefit of the tax on the shares held within it. Hence it was considered that the State, out of the taxes collected on the gross receipts of certain corporations, should return to the municipalities, in which any of the shares of these corporations were held, the uniform rate of one per cent. on such stock. It is provided, however, that the State should not be required to pay in such a form more than it collects from any corporation. But while it is comparatively easy to trace the ownership within the State of the stock of the companies chartered or operating in it, since these can be required to make returns of their shareholders, etc., it is very difficult to determine what outside stock is held in the State. As is notoriously the case, very little of the stock of outside corporations is covered by the assessment of personal property. Thus inequality of taxation is the result, and certain towns in which considerable quantities of domestic railway stock are held are unusually favoured by the provision which requires the distribution of railroad taxes in this way. Bangor, for instance, receives from the State, in the shape of the one per cent. allowance on railroad and other stock held by its citizens, more than enough to pay the whole of the State tax levied on that city.

On the working of the main system of taxation, the Ontario Commission obtained much interesting information from Col. E. C. Farrington, Clerk of the Board of Railroad Commissioners, and Mr. James Plummer, Secretary of the Board of State Assessors.

An interesting phase of the Maine system is brought out in connection with the assessment of the Canadian Pacific Railroad, which owns 176.7 miles in the State and operates 56.1 miles of the Maine Central railroad. As we have seen, the gross earnings per mile are arrived at by dividing the gross earnings of the whole of a railroad system by the total length of the line operated. Now the representatives of the C. P. R. claim that, as its earnings are derived from its water and land routes combined, and that as they quote through freight and passenger rates it is impossible to make any accurate distinction between the land and water earnings, so the total mileage of the line must be considered to include the water routes as well as the land routes. Obviously, when we include the ocean and lake mileage of the C. P. R. steamers the earnings per mile, calculated on the whole system, will be modest enough. The case is still in dispute. The Minnesota system, it may be observed, escapes such difficulties as this.

Quite apart from the ocean routes and business of the C. P. R., which might be eliminated, this point has special significance for Ontario, where already more than one line of railroad has either combined or alternative water and rail sections in their systems of transportation.

According to the Maine officials there is practically no friction between the railroads and the State, as regards the system or the amount of taxes levied. As stated by Col. Farrington "This has been the law of the State from early times, and has been perfectly satisfactory to the railroads. Two years ago there was a little feeling on the part of the people that the railroads were not paying enough and the Legislature took decided action and increased the rates. In fact it was agreed with the railroads that the matter should be settled amicably; the railroads agreed that if present conditions

were unsatisfactory an increase should be made. The increases were accordingly nearly doubled." (Ont. Com. Interviews). Both Mr. Farrington and Mr. Plummer commended the liberal policy of the railroads in the State of Maine towards the industries and needs of the State, and stated that there was a corresponding desire on the part of the public to show a liberal spirit towards the railroads. "There is a very kindly feeling between the railroad organizations of the State of Maine and the people at large. Nevertheless, there is always the feeling that the railroads should pay their share of taxation, and the system now in existence is considered fair."

Mr. Plummer referred to the fact that "the lumbermen, who compose a great part of the population of Maine, are beginning to build narrow guage railways for getting our lumber, on account of the lumber being cut each year further and further back from the waterways. These roads are taxed just the same as the others,—on gross transportation receipts."⁶⁹

It appears that though the Railroad Commission has power to investigate the returns of the railroads they are generally accepted without question when furnished under oath. As Mr. Plummer put it, "We expect any report made to the Commission under oath to be correct, and it would be necessary to have a very strong case before we would investigate on the assumption that a false return had been made."⁷⁰

There is no return of the amount of taxes paid by the railroad to the several municipalities on their local real estate, but as the total amount assessed of the various railroads is given and the average rate of municipal taxes for the State is about \$20 on the thousand, we have the following estimate as approximately correct:

	Steam Railroads.	Street Railroads.
Real estate assessed	3,260,713	593,140
Taxes collected at average of 2%	65,214	11,862

The following table exhibits the mileage and amount of taxes paid on gross earnings by each of the steam and street railways of Maine. The C. P. R., and the G. T. R., are the roads which operate in Canada.

Taxes assessed upon the railroads doing business in the State of Maine for the year 1903, giving also the tax assessed to pay the expenses of the Railroad Commissioners, and the mileage of each road in Maine.

Name of Railroad. (Steam).	Mileage.	Excise Tax.	Railroad Com- missioners' tax.
Bangor and Aroostook Railroad Co.....	426.87	\$ 32,509 11	\$1,538 80
Boston and Maine Railroad Co.....	157.43	86,896 88	2,056 61
Bridgeton and Saco River Railroad Co.....	21.25	303 31	38 29
Canadian Pacific Railway Co.....	176.70	23,684 49	996 53
Franklin and Megantic Railway Co.....	32.70	179 23	33 93
Georges Valley Railroad Co.....	8.50	62 70	11 87

⁶⁹ Ont. Com. Interviews.

⁷⁰ Ont. Com. Interviews.

Name of Railroad. (<i>Steam.</i>)	Mileage.	Excise Tax.	Railroad Com- missioners' tax.
Grand Trunk Railway Co. of Canada.....	89.37	19,069 78	555 48
Kennebec Central Railroad Co.....	5.00	230 79	14 57
Lime Rock Railroad Co.....	11.30	1,395 60	58 72
Maine Central Railroad Co.....	649.77	184,976 64	4,669 75
Monson Railroad Co.....	8.16	32 38	6 13
Phillips and Rangeley Railroad Co.....	28.60	124 79	23 63
Portland and Rumford Falls Railway Co.....	63.85	19,716 34	497 74
Rumford Falls and Rangeley Lakes Railroad Co....	40.30	1,505 10	94 99
Sandy River Railroad Co.....	18.00	666 20	50 46
Sebasticook and Moosehead Railroad Co.....	15.00	81 05	15 35
Somerset Railway Co.....	42.06	1,972 76	124 51
Washington Co. Railroad Co.....	131.58	1,894 60	239 15
Wiscasset, Waterville and Farmington Railroad. Co...	57.46	123 25	23 34
York Harbor and Beach Railroad Co.....	11.51	383 64	29 05
(Street):			
Atlantic Shore Line Railway Co.....	1.57	20 87	4 39
Augusta, Winthrop and Gardiner Railway Co.....	26.64	448 06	56 55
Bangor, Hampden and Winterpor Railway Co.....	4.52	189 41	23 91
Bangor, Orono and Old Town Railway Co.....	16.20	343 38	54 18
Bangor Street Railway Co.....	9.06	634 54	57 21
Benton and Fairfield Railway Co.....	4.12	88 51	13 98
Biddeford and Sace Railroad Co.....	7.61	511 89	46 15
Calais Street Railway Co.....	7.00	89 73	14 16
Fryeburg Horse Railroad Co.....	3.00	1 10	69
Lewiston, Brunswick and Bath Street Railway Co....	57.77	1,265 41	199 66
Norway and Paris Street Railway Co.....	2.13	43 17	6 81
Penobscot Central Railway Co.....	26.25	89 23	28 17
Portland Railroad Co.....	77.82	6,730 71	530 99
Portsmouth, Kittery and York Street Railway Co....	15.50	712 89	74 97
Rockland, Thomaston and Camden Street Railway Co.	21.07	831 13	87 42
Sanford and Cape Porpoise Railway Co.....	23.40	455 00	71 79
Skowhegan and Norridgewock Railway and Power Co.	5.75	5 44	3 43
Somerset Traction Co.....	12.20	55 64	17 53
Waterville and Fairfield Railway and Light Co.....	4.75	322 61	29 11
	2321.77	\$388,647 36	\$12,400 00.

Compiled from data furnished in Annual Report of Railroad Commissioners, 1903, and Annual Report of the Board of State Assessors, 1903.

MASSACHUSETTS.

Massachusetts has not devised for its railroads any special system of taxation. The railroads and other transportation companies organized under the laws of the State fall into the class of general corporations and are treated as almost all other companies organized within the State. Banks and trust companies are treated in a special manner in certain particulars. The general property tax, covering the usual forms of real and personal property, is assessed and collected by the officers of the several municipalities, but the general corporation tax is administered entirely by State officers, though the greater part of the proceeds is distributed to the municipalities.

The nature and operation of the general corporation tax which applies to railroads and other transportation companies is very admirably stated in a report of the Commission appointed to inquire into the expediency of revising and amending the laws of the Commonwealth of Massachusetts relating to taxation, 1897.

This report, it is well known, was chiefly written by Prof. F. W. Taussig of Harvard University, a member of the Commission. From it we quote a summary of the Massachusetts system for the taxation of corporations:

In its main outlines the plan of the tax is as follows: The real estate and machinery of all corporations situated within the Commonwealth are assessed by the local authorities and the taxes on them are paid directly to the respective cities or towns. The remainder of the property of the corporation, as indicated by the market value of the outstanding shares, over and above the taxed value of the real estate and machinery, is taxed by the Commonwealth under the corporation or franchise tax, and payment is made in the first instance to the treasury of the Commonwealth. The proceeds, however, do not accrue in toto to the treasury of the Commonwealth, but are divided in large part among the cities and towns of the State.

"All corporations chartered by the Commonwealth of Massachusetts, or organized under the general corporation laws, for the purpose of business or profit, having a capital stock divided into shares, are subject to this annual tax, entitled a tax upon their corporate franchise. The tax affects, therefore, corporations of the most various kinds,—manufacturing and trading establishments, street railways, gas and electric light companies, electric power companies, private water supply companies, telegraph and telephone companies and certain insurance companies. There are some important exceptions, however, to the scope of the tax. Savings banks are taxed differently; banks and mutual insurance companies are also treated in a different way.

"The general corporation tax is assessed by the Tax Commissioner with the aid of returns from the corporations and from the local assessors. Every corporation must return to the Tax Commissioner, under oath of its treasurer, a complete list of its shareholders, their places of residence, the number of shares owned by each on the first day of May, the amount of the capital stock of the corporation, its place of business, the par value and the market value of the shares on the first day of May and a statement of the works, structures, real estate and machinery owned by the corporation and subject to local taxation within the Commonwealth; in the case of railroad and telegraph companies, the whole length of their lines and the length of so much of their lines as is without the Commonwealth; in the case of other corporations, the amount, value, and location of all works, structures, real estate, and machinery owned by them and subject to taxation without the Commonwealth.

"The assessors of each city and town also return to the Tax Commissioner by the first Monday in August the names of all corporations established in their respective cities or towns or owning real estate therein, and a statement of the works, structures, real estate and machinery owned by each corporation, and the amount for which such property is valued for local taxation. From these returns, or otherwise at his discretion, the Tax Commissioner ascertains the true value of the shares of each corporation, which is described in the statute as the "true value of its corporate franchise." The shares of many corporations being sold from time to time on the open market, their market value is comparatively easy to ascertain; but with the greater number of corporations affected by the tax, the shares are seldom, if ever, sold or offered for sale in open market. In the case of such corporations the Tax Commissioner procures from the Corporation a statement of the condition of the Company, of its assets and liabilities. In case of refusal to render a statement of condition, the commissioner is authorized to examine the books and to examine on oath the treasurer and directors. From this information, and such other information as he may be able to procure, the commissioner pro-

ceeds to put upon the corporation what he considers to be a just estimate of the true value of its "corporate franchise."

"From the aggregate value of the shares of the company thus determined the Tax Commissioner makes the following deductions. In the case of railroad and telegraph companies whose lines extend beyond the limits of the State, such portion of the whole valuation as is proportional to the length of that part of their line lying without the Commonwealth is deducted; and further an amount equal to the value of their real estate and machinery located and subject to taxation within the Commonwealth. The total value of the shares thus diminished by allowance for real estate and machinery already taxed, and by the mileage and other apportionment in the case of railroad and telegraph, and telephone companies, may be called the taxable corporate excess.

"This corporate excess is then taxed at a rate which is roughly the average rate of taxation in the Commonwealth. It is determined by the apportionment of the whole amount of money to be raised by taxation upon property in the Commonwealth during the current year upon the aggregate valuation of all the cities and towns for the preceding year.

"The amount of the tax thus computed on corporate excess is then collected by the Treasurer of the Commonwealth. The Tax Commissioner notifies the Treasurer of each corporation of the amount of its tax; and the ease and certainty with which penalties can be applied to domestic corporations cause the taxes to be paid, as a rule, promptly, and with a minimum of expense for collection.

"The tax having been paid into the treasury of the Commonwealth, it is in part distributed among the cities and towns, in part retained by the State. On the principle that personal property is taxable at the place of the owner's domicile, such proportion of the tax as corresponds to the proportion of stock owned by persons residing in the Commonwealth is credited and paid to the several cities and towns where (as may appear from the corporation's list of stockholders or from such other evidence as the Tax Commissioner may procure) such shareholders resided on the first day of May next preceding. The remainder of the tax, which represents the shares in Massachusetts corporations owned by persons who are not residents of any city or town in the Commonwealth, is retained in the State treasury."

In round numbers about eighty per cent. of the corporation tax is paid over to the municipalities and about twenty per cent. of it retained by the State.

As to the working of the system in 1897 the report speaks as follows: "The taxation of shares in domestic corporations and in banks is in striking contrast with that of bonds, foreign stocks, and other securities taxable to the holder. Here there is no demand for a statement from the individual taxpayer, no doomage by local assessors, no guess work, no possibility of evading or diminishing taxes by change of domicile, no question of double taxation. The real estate and machinery are assessed locally; doubtless not with perfect equality and justice, but probably as carefully as would be possible under any system. The corporate excess is taxed at a uniform rate by the State. The taxes are regular and certain. They are heavy, and they yield a large revenue. The rate of taxes on corporate excess for the last fifteen years has been from year to year not far from \$15 per \$1,000, or about one and one-half per cent. on the capital. The assessment in 1896 was \$3,829,528.02. Yet little complaint is heard regarding these taxes,—a single proof that the tax payers accommodate themselves, if not with ease, at least without serious

complaint, to burdens which are steady, regular, predictable, and for which in consequence they are able to make calculations and adjust their affairs.

"The corporation tax is particularly simple and is assessed with unerring exactness, in the case of large and well-known corporations, whose shares are regularly dealt in, and consequently have a publicly recorded value. Railways, banks, the larger manufacturing corporations, and others whose stocks are frequently quoted, are taxed without a word of inquiry and without the possibility of escape. A very large number of miscellaneous corporations are in a somewhat different position. Their shares are held by a few individuals, are rarely transferred, and are without a quotable market value. . . . As a whole, this part of our tax system is an excellent example of the method of taxing corporations at the source, and of refraining from any dealings with the individual holder of corporate securities,—a method admitted on all hands to be the simplest, most efficient, and most equitable in the taxation of corporate property."⁷¹

It is necessary to observe, however, that though this system works quite satisfactorily in Massachusetts, one can hardly conceive of its doing so in most of the other states. Its successful operation depends very largely upon historic conditions, and especially upon the stringency of the Massachusetts laws with reference to the organization of railroad and other corporations, and which insure a *bona fide* payment in full of the ordinary shares, a limitation of the issue of mortgage bonds, etc. These conditions discourage any speculative manipulation of stock and encourage the holding of it as normal investment for dividends. It is always possible, therefore, to very nearly arrive at the real value of the railroad property by taking the number and value of the shares of railway stock. The bonds of railway companies are not taxed.

The essential features of the law at present in force as it affects railroads, steam and electric, telegraph and telephone companies, are contained in the following sections of the "Revised Law Relating to the Taxes and Excises for Revenue upon Corporations in Massachusetts, 1902."

TAXATION OF CORPORATE FRANCHISES.

"Section 37. Every corporation organized under the general or special laws of the commonwealth for purposes of business or profit, having a capital stock divided into shares, except banks whose shares are otherwise taxable, in addition to all returns required by its charter, shall annually, between the first and tenth days of May, return to the Tax Commissioner under oath of its treasurer, a complete list of its shareholders, their residences, the number of shares belonging to each, the amount of the capital stock of the corporation, its place of business and the par value and market value of the shares made up as of said first day of May. If stock is held as collateral security, such return shall state the name and residence of the pledgeor and of the pledgee. It shall also contain a statement in detail of the works, structures, real estate and machinery owned by said corporation, and subject to local taxation within the commonwealth, and of the location and value thereof. Railroad and telegraph companies and street railway companies, whether chartered or organized in this commonwealth or elsewhere, shall also state in their return the whole length of their lines, and so much of the length of their lines as is without the commonwealth. Street railway companies shall also state in their return the length of track operated by them in each city or town on the thirtieth day of September preceding the return, to be determined by measur-

⁷¹ Taxation Report, 1897, pp. 68-70.

ing as single track the total length of all tracks operated by them including sidings and turn-outs, whether owned or leased by them or over which they have trackage rights only, and the amount of dividends paid on their capital stock during the year ending on such preceding thirtieth day of September, and during each year from the organization of the company. Telephone companies organized under the general or special laws of this commonwealth and manufacturing, owning, using, selling or licensing others to use telephones, apparatus or appliances, but having in use within it any of their lines or telephones, shall also state in their return, in such form as the tax commissioner may require, the facts necessary to ascertain the deductions authorized by the following section.

"Section 38. The tax commissioner shall ascertain from the returns or otherwise the true market value of the shares of each corporation subject to the requirements of the preceding section, and shall estimate therefrom the fair cash value of all of said shares constituting its capital stock on the preceding first day of May, which, shall be taken as the true value of its corporate franchise. From such value there shall be deducted:

"First. In case of a railroad or telegraph company or of a street railway company whether chartered or organized in this commonwealth or elsewhere, so much of the value of its capital stock as is proportional to the length of that part of its line, if any, lying without the commonwealth; and also the value of its real estate and machinery subject to local taxation within the commonwealth.

"Second. In case of a domestic telephone company, the amount and market value of all stock in other corporations held by it upon which a tax has been paid in this or other states for the twelve months last preceding the date of the return; and in case of such a foreign telephone company, so much of the value of its capital stock as is proportional to the number of telephones used or controlled by it or under any letters patent owned or controlled by it without the commonwealth. In case of a telephone company, whether chartered or organized in this commonwealth or elsewhere, the value of its real estate and machinery subject to local taxation within the commonwealth.

"Section 40. Every corporation shall annually pay a tax upon its corporate franchise, after making the deductions provided for, at a rate determined by an apportionment of the whole amount of money to be raised by taxation upon property in the commonwealth during the same year as returned by the assessors of the several cities and towns upon the aggregate valuation of all cities and towns for the preceding year; but if the return from any city or town is not received prior to the twentieth day of August, the amount raised by taxation in said city or town for the preceding year, as certified to the secretary of the commonwealth, may be adopted for the purpose of this determination. The amount of tax assessed upon polls for the preceding year, as certified to the secretary, may be taken as the amount of poll tax to be deducted from the whole amount to be raised by taxation, in ascertaining the amount to be raised upon property.

"Section 41. If an operating company, including a company whose lines are located partly within and partly without the limits of the commonwealth, whether chartered or organized under the laws of this commonwealth or elsewhere, has paid during the year ending on the thirtieth day of September preceding the date of the return required dividends exceeding in the aggregate eight per cent. upon its capital stock, it shall for every such year in addition to the tax required by the preceding section pay a tax equal to the amount of such excess to be determined as therein provided by the tax com-

missioner; but such additional tax shall not be imposed if, from the date when the company commenced to operate the road, it has not paid dividends equivalent in the aggregate to at least six per cent. per annum upon its capital stock from year to year.

"Taxation of the Earnings of Street Railway Companies.

"Section 43. A street railway company, including a company whose lines are located partly within and partly without the limits of the commonwealth, whether chartered or organized under the laws of this commonwealth or elsewhere, shall annually, on or before the fifteenth day of October, make and file in the office of the board of assessors of every city and town in which any part of the railway operated by it is situated a return signed and sworn to by its president and treasurer stating the length of track operated by it in public ways in such city or town and also the total length of track operated by it in public ways, and also the amount of its gross receipts during the year ending on the preceding thirtieth day of September, including therein all amounts received by it from the operation of its railway, but excluding income derived from sale of power, rental of tracks or other sources.

"Section 44. On or before the first day of November annually the assessors of every city and town in which a street railway is operated, including a company whose lines are located partly within and partly without the limits of the commonwealth, whether chartered or organized under the laws of this commonwealth or elsewhere, shall assess on each company described in the preceding section operating a railway therein an excise tax of an amount equal to such proportion of the following percentages of the gross receipts of such company as the length of tracks operated by it in public ways of such city or town bears to the total length of tracks operated by it in public ways.

"The percentage shall be based upon the annual gross receipts for each mile of track as follows and computed upon the aggregate of said annual gross receipts; four thousand dollars or less, one per cent., more than four thousand dollars and less than seven thousand, two per cent.; more than seven thousand dollars and less than fourteen thousand, two and one-quarter per cent.; more than fourteen thousand dollars and less than twenty-one thousand, two and one-half per cent.; more than twenty-one thousand and less than twenty-eight thousand, two and three-quarters per cent.; twenty-eight thousand dollars or more, three per cent.

"The excise tax provided by this section shall be in addition to the taxes now provided by law.

The amount of tax to be paid to each municipality is subject to certain rather complex modifications and to special relations between the street, railway company, and the municipality.

"Section 46. Prior to the fifteenth day of November in each year the assessors of every city and town shall notify the collector of taxes thereof of the amount of excise tax so assessed upon it, which shall become due and payable within thirty days after the receipt of such notice.

"Taxation of Telegraph Companies.

"Section 48. Every corporation or association chartered or organized without the commonwealth which owns, controls or uses a line of telegraph within the commonwealth, shall make the returns required in section thirty-seven to be made by telegraph companies within the commonwealth, except

the list of its shareholders; and shall annually pay a tax at the rate determined in the manner provided in section forty; and all telegraph lines within the commonwealth controlled and used by such corporation or association, shall, for the purposes of this chapter, be deemed to be a part of its own lines.

"Section 61. No taxes shall be assessed in a city or town for state, county or town purposes, upon the shares in the capital stock or corporations, companies or associations for any year for which they pay to the treasurer and receiver general a tax on their corporate franchises. Such proportion of the tax collected of each corporation, company or association, except street railway companies as corresponds to the proportion of its stock owned by persons residing in this commonwealth shall be distributed, credited and paid to the several cities and towns in which, from the returns of other evidence, it appears that such persons resided on the preceding first day of May, according to the number of shares so held in such cities and towns, respectively. If a city or town owns stock in any corporation taxed upon its corporate franchise under the provisions of this chapter a return to said city or town shall be made as if it were owned by persons resident therein. The tax of each street railway company shall be apportioned among the several cities and towns in proportion to the length of tracks operated by such company in said cities and towns respectively.

"Section 62. The tax commissioner shall, subject to appeal to the board of appeal, ascertain and determine the amount due to each city and town under the provisions of the preceding section, notify the treasurer of each city and town thereof and certify the amount as finally determined, to the treasurer and receiver general, who shall thereupon pay over the same.

"Section 64. The tax on corporate franchises herein imposed upon any corporation shall not affect nor prevent the imposition and collection of any other tax now authorized, or that may hereafter be authorized, upon any especial privilege, franchise or business enjoyed or exercised by such corporation."

It will be observed that in the case of street railways where the earnings in the larger centres of population may be very considerable the general corporation tax has been supplemented by a gross earnings tax. It is also significant that when a special tax came to be levied upon the railroads for the support of the railroad commission it took the form of a tax upon gross earnings.

From the modern point of view the least commendable feature of the Massachusetts system, as of that of Maine, is connected with the process of distributing the general corporation tax to the different municipalities on the basis of the stock held in them. As the Tax Commissioner puts it, "The State is merely a mechanical machine for collecting the taxes, and nothing is said by the State as to what the money should be spent on. If some of the capital stock of the railroads is held outside the State, the tax on that is retained in the treasury and this amounts to practically twenty per cent. of the tax collected."⁷² This system places at the disposal of many a municipality a very considerable revenue which those who spend it have nothing to do with assessing or collecting, and which bears no necessary relation to the needs of the municipality, on the one hand, or the amount of property within it, on the other. The temptation to extravagance; therefore, is very considerable, inasmuch as the citizens do not feel that the expen-

⁷² Ont. Com. Interviews.

diture bears directly upon them or is a charge upon their local property. The report of 1897 thus comments upon this feature of the Massachusetts system: "There are, however, some questions as to the present modes of distributing the proceeds of the taxes on corporate excess to which we think it necessary to call the attention of the General Court. They are distributed, as will be remembered, among the several cities and towns according to the ownership of shares by their inhabitants. We have already referred to some anomalous results of this method of distribution. It causes disproportionately large sums to be turned over to a few towns much resorted to by persons of means. But, even apart from this difficulty, there are others which make it doubtful whether under any circumstances corporate excess should be made a direct source of revenue to the towns and cities.

"With many corporations there is a very large corporate excess. All railways, by an old decision of the courts, are exempt from local taxation on their right of way; and, in any case, the value of their real estate and machinery, taxable locally, is not a great proportion of their total valuation. This is even more strikingly true in the case of street railways. The cities and towns where the shareholders happen to reside, perhaps distant from the places where the enterprises are carried on, get the main benefit of the taxes.

"On the whole, the present method of distributing corporate excess seems to us to be based on a doubtful principle, and to work badly in practice. It results in an arbitrary apportionment of large sums of money, with little visible regard to the real claims and needs of the several cities and towns. We shall accordingly make recommendations for a change in this part of the tax system; for the retention of the tax on corporate excess by the State in the first instance, and for the utilization of the general financial resources of the State, with regard to the just needs of the local bodies."⁷³

All efforts, however, in the direction of altering the destination of taxes on corporations by allowing them to be applied to State purposes have failed. The municipalities are naturally unwilling to give up so fruitful a source of revenue and one collected without the least trouble or expense so far as they are concerned. The objection is the more strongly felt in that the place of such a revenue must be taken by additional direct taxation upon the residents of the municipalities. Since the members of the State Legislature are representatives of special local districts, they dare hardly support in the Legislature at Boston, a measure which would be so unpopular in their own constituencies.

In connection with the nature and working of the Massachusetts system the Ontario Commission received much practical and valuable information from Mr. W. D. T. Trefry, Tax Commissioner and Commissioner of Corporations for the State of Massachusetts, and from Professor C. J. Bullock of Harvard University.

Massachusetts has no state board of equalization or any elaborate machinery for securing an equal and uniform assessment of property throughout the State. In the matter of assessment each municipality has a comparatively free hand. The Tax Commissioner, however, has certain powers which may be employed towards the securing of an equal assessment, thus: "He or his deputy may visit any city or town, inspect the work of its assessors and give to them such information and require of them such action as will tend to pro-

⁷³ Taxation Report, 1897, pp. 70-71.

duce uniformity in valuation and assessments throughout the commonwealth. He or his deputy may cause an assessor who violates any of the laws relative to the assessment of taxes for which a penalty is imposed to be prosecuted, either in the county in which said officer resides or in an adjoining county.”⁷⁴

In distinguishing between the amount of railroad property subject to local taxation and that exempt from local taxation, quite an arbitrary rule is applied. Each line of railroad throughout the State is exempt from local taxation on a strip of land five rods wide. Railroad track and all buildings, etc., situated on that strip are exempt from taxation, but all land, buildings, or machinery beyond that area are subject to local taxation. In the case of buildings situated partly on the exempted strip and partly beyond it, they are partly taxed and partly exempt in proportion as each building is situated more or less within one or the other area.

In valuing the stock of the railroads the Massachusetts authorities do not profess, as do those of the Western States, to take outside considerations into account. According to Mr. Trefry “we take the stock market only and depend on that entirely.” This, however, applies mainly to railroads. “The railroads afford the easiest system I have to deal with, in other corporations I have to take every bit of information I can get in order to make up my mind as to the value.” The values of the shares are taken as quoted on the first of May each year. Where, however, there is any suspicion that the value of the stock on the first of May has been manipulated with a view to affecting the assessment of a corporation, the quotation of that day may not be accepted. This has occurred only in the case of a few small companies.

It is quite obvious that, inasmuch as the majority of the recently constructed railroads have secured most of their effective capital through the sale of bonds, an assessment of the market values of the stock alone would not represent the value of the railroads. Yet in Massachusetts the value of the stock alone is taken. So far as the corporations are concerned the bonds escape altogether, though they are expected to be assessed to their holders within the State as personal property. It is generally understood that in this shape few of them are reached. Hitherto all efforts to include the bonds in the assessment of Massachusetts railroads have failed. As Mr. Trefry puts it “For several years we have tried, but the simplest argument is the one that frightens the Legislature. The railroads simply say ‘You are taxing a debt.’” He was quite of the opinion that the Massachusetts system, being the product of local and historic conditions, could not be applied to any new country. Asked if the railroads were satisfied with the system of taxation, in Massachusetts, Mr. Trefry answered “Yes, I think so. We never see the manager of a railroad up here to protest against the tax, but plenty of other corporations come here as they all have the right to come for revision of their taxes.”

As to the treatment of the Pullman Car Company, which is the only one of the kind operating in the State, Mr. Trefry explained that “They have no charter in the State but they pay an excise tax amounting to one one-hundredth of one per cent. on their authorized capital. But that tax cannot exceed \$2,000, so they pay \$2,000 no matter how much or how little business they do.” With reference to private car or car loaning companies, he further stated that “If they have a place of business in the State, we get the same excise tax of one one-hundredth of one per cent., but if they have no

⁷⁴ Revised Laws Relative to Taxation of Corporations, sec. V.

place of business we don't get anything. Under our present system we could not get at them unless we had a license system in the State, which we have not."⁷⁵ It appears that Massachusetts, unlike most of the Western States, derives practically no revenue from such companies. It is also pointed out that in the case of an express company, such as the Wells Fargo, which does only an interstate business, the State of Massachusetts gets no revenue from the proportion of the business done within that State, although the offices and other specific property of the company are subject to local rates.

In an interview with Mr. James F. Jackson, Chairman of the State Board of Railroad Commissioners, it was learned that the Commission has no difficulty in obtaining from the railroads any information for which they have occasion to ask. "Under the statute, the Commissioner has the right to ask for whatever information he desires to assist him in his work, and there seems no reason to believe that any attempt exists on the part of the railways to conceal or withhold any facts desired."⁷⁶

Professor C. J. Bullock of Harvard University, in discussing the Massachusetts system of taxing railways, expressed the opinion that "the result is rather unfortunate on account of the return to the municipalities of their proportion on the basis of the amount of stock held. He would recommend that the whole amount received from the railway should be retained for State purposes, and he contends that nine-tenths of the municipalities would be benefited by the change." He was also of opinion that corporations generally, should be taxed by the State as corporations and not in the shape of securities held by private individuals. "If corporations are taxed adequately on all their property, there could be no objection to taxing their real estate locally, but if their corporate business is not taxed adequately but only their real estate, then they are not bearing their proper share of taxation and local assessors cannot deal with such a situation. As a rule they will not tax the property enough. There are some railroads in the United States, I have found, who are actually paying in local taxes as much, or about as much, as they ought to pay. That is because some municipalities held them up and succeeded in taxing them very severely." In discussing the difficulty of taxing the bonds of a railroad, as contrasted with its ordinary stock, Professor Bullock explained that there is a legal difficulty in the United States concerning this matter, and spoke of the trouble which had arisen in Pennsylvania, where, under a former system, "certain non-resident bond-holders attacked the constitutionality of the law, claiming that a bond was no part of the property of a railroad but rather an obligation of the road, which, of course, it is legally, while economically it is only one way of raising capital. The court, however, held that it was an obligation and that only those bonds could be taxed which were held by the citizens of the State, just the same as any other property, but that the taxing power did not extend into Ohio or anywhere outside the State of Pennsylvania. The result is that now the Pennsylvania law is incomplete. They collect the tax from the corporations on all of their stock,—they have the right to tax that because it is part of the corporate franchise—but they cannot tax the bonds as part of the franchise. They can tax the bonds belonging to citizens of Pennsylvania but they cannot tax bonds held by non-residents. This difficulty in handling bonds is a difficulty that grows up wholly out of the decisions of our American courts. If you are likely to confront the same legal difficulty in Ontario in the case of bonds,

⁷⁵ Ont. Com. Interviews.

⁷⁶ Ont. Com. Interviews.

that will be a decisive argument against adopting the Pennsylvania system of valuation. The railways would then probably raise the point that bonds are not part of the capital but are part of their obligations. This can all be avoided, of course, by taking their earnings."⁷⁷

With reference to the system of taxing railroads on gross earnings, he observed that "It is not an ideal system but unless the Government can control the accounts of the railroads it would seem to be the only possible system of taxation on earnings. The United States can control the accounts of all the railroads, and if they should ever adopt a uniform system, they could prescribe the form for railroad accounting and having these returns it would be possible to tax net earnings satisfactorily. Of course, a State like Massachusetts not having that power could not tax net earnings. Possibly in time the Federal Government may co-operate with the States, but that will take a great deal of time to bring about, and naturally the railroads oppose it very strenuously. The railroads admit, however, that the form of accounting which the Interstate Commerce Commission has prescribed is a good thing, and that great improvements have resulted from adopting the standards of the Interstate Commerce Commission." It was also pointed out that a tax on the gross earnings of the railroads in the United States is very difficult to manage on a perfectly constitutional basis, owing to the legal difficulties arising out of interference with the Interstate Commerce on the part of individual States.

In explanation of the large revenue derived from the railroads in Massachusetts, Professor Bullock observed, "That, of course, grows out of the nature of our railroads. The traffic is dense and the railroads are well established. Nearly all pay dividends. We have no extensive mileage through unproductive country and the roads are capitalized, on account of valuable terminals, at a large amount per mile."⁷⁸

Owing to the fact that the railroads are taxed under the general law applicable to corporations, no separate return is made in the published report of the Tax Commissioner of the taxes paid by the various railroad companies. In the Report of the State Railroad Commissioners a detailed report is given of each railroad company operating in the State. But, though the total tax paid by each company is given, the proportion paid to the State of Massachusetts is not separately stated. The following tables, however, give certain aggregate returns which illustrate several features of the Massachusetts system.

RAILROAD CORPORATIONS.

Returns for the Year 1903.		Miles.
Length of main road and branches		3,793
In Massachusetts		2,110
Total length as single track		7,601
In Massachusetts		4,469
Capital stock, common	\$207,324,665	
Capital stock, preferred	28,509,800	
Stock held in Massachusetts	122,399,300	
Funded debt	133,435,355	
Taxes	\$5,017,971	

⁷⁷ Ont. Com. Interviews.

⁷⁸ Ont. Com. Interviews.

RAILROAD CORPORATIONS—*Continued.*

Gross earnings from operation	\$93,305,021
Operating expenses	67,774,863
Net earnings from operation	\$25,551,067
Income from all other sources	12,315,071
Total income above operating expenses	\$37,866,138
Interest, taxes and other charges	24,087,170
Net divisible income	\$13,778,968
Amount of dividends declared	13,495,188

Compiled from statistics furnished in Report of the Tax Commissioner, 1903, and Report of the Board of Railroad Commissioners, 1903.

Whole Amount of Taxes Assessed under Revised Laws, Relative to Taxation of Corporations.

General list	\$4,766,211 12
Street Railways.....	984,229 47
	\$5,750,440 59
Amount due to cities and towns:	
On account of general list	\$3,443,971 20
On account of Street Railways	981,886 36
	\$4,425,857 56
Balance accruing to the commonwealth	\$1,324,583 03

Report of Tax Commissioner, 1903.

The comparative valuation of the capital stock and real estate and machinery of the corporations during the years 1902 and 1903 is as follows:

Total valuation of the capital stock of corporations	\$720,466,822
Valuation of real estate and machinery	411,184,712
Aggregate excess, on which a state tax was laid	343,105,331

The average rate of taxation which is applied to all business corporations has been as follows, for the last four years:

	Rate per \$1,000.
1900	\$16 14
1901	16 18
1902	16 18
1903	16 76

Report of the Tax Commissioners, Massachusetts, for 1903.

NEW YORK STATE.

The system of railroad taxation in New York is more complex than in most of the other States. As in the majority of cases, however, and more particularly in the Eastern States, the system is conditioned by historic features, which it would be very difficult to alter without disturbing the established fiscal system of the minor municipalities as well as of the larger cities and of the State itself. Thus, while the newer corporations, such as electric street railways, are treated by more modern methods, the older corporations, such as the banks and the steam railroads, are still subject to the older methods of local taxation. Yet, newer systems of state taxes are superadded to reach the increase in corporate or non-physical values.

Until recently the State of New York met its fiscal needs, local, city and state, by the general property tax. But in 1880 the system was inaugurated, in connection with bank stock, of levying for State purposes a special tax upon corporations. Since 1899 the new special franchise tax has been in operation and the expansion of this system has rendered the State almost independent of any share in the general property tax levied upon real estate and personal property in the local municipalities. The following returns will illustrate the decline in the amount of direct taxes required by the State:

Year.	Direct State Tax.	Indirect State Tax.
1899	\$12,640,228	\$10,463,265
1900	10,704,153	13,236,849
1901	6,824,306	15,611,498
1902	748,072	16,051,353
1903	761,085	22,341,802

Mr. Peter Deyo, Secretary of the State Tax Commission, put the matter as follows: "We have reached a point now in the State where all the tax collected directly for State purposes and paid into the State Treasury for expenses for State Government is about \$750,000, and that will probably be eliminated because we expect enough revenue from the indirect taxes to pay all the expenses of the Government."⁷⁹

As the result of the peculiar growth of the New York State system of taxation, the railroads find themselves subjected to several different taxes. In the first place they are taxed on their real and personal property for township, county and school purposes. These taxes vary with the different municipalities. They are also taxed for State purposes upon their real estate, this tax being collected for the State by the local authorities, and varying from year to year with the needs of the State, as we have seen. Then they are subject to various special taxes levied by the State alone. First, there is the organization tax of one-twentieth of one per cent. upon the amount of their capital stock. In the case of foreign corporations the rate of the license tax is one-eighth of one per cent. on the capital employed within the State. Next there is the annual franchise tax, upon the basis of the capital stock employed within the State, and levied at the rate of one-fourth of a mill for each one per cent. of dividends of six per cent. or upwards. If the dividend is less than six per cent., they are taxed at the rate of one and a half mills "upon such portion of the capital stock at par as the amount of capital employed within this State bears to the entire capital of the corporation."

Then there is an additional franchise tax upon all transportation and transmission corporations, as a license for the exercise of their franchise to do business within the State. This is levied at the rate of five-tenths of one per cent. on their gross earnings derived from business within the State. Finally, the railroads are subject to a special tax upon their earnings for the support of the State Railroad Commission.

Except for some slight variations which will be noted, the various other transportation and transmission corporations, such as steamboat, ferry, express, pipe-line, baggage, telegraph, telephone, palace or sleeping-car compa-

⁷⁹ Ont. Com. Interviews.

nies, are subject to practically the same taxes as steam railroad corporations. The elevated railroads or surface railroads not operated by steam are subject to special taxes on gross earnings, and in consequence are exempt from the tax on capital stock.

Though in several respects the railroads and other transportation and transmission companies, as regards the details of their taxation, are treated differently from such corporations as banks, insurance companies, trust companies, etc., yet, so far as they are taxed directly by the State, they are all under the general section of the tax law relating to the taxation of corporations. The taxes on real estate and personal property, whether for state or local purposes are as a rule assessed and collected by the local authorities, subject to the revision of the Board of Equalization, as in the majority of other States. As to the basis to the local taxes on railroads, Mr. Deyo says, "They are assessed locally by the local authorities for their tracks and road beds, and the basis of that assessment is the cost of reproduction. At the time the assessment was made they figured out what it would cost to make the road new and then made a sufficient allowance for depreciation."

There being so many different features in the New York system for taxing railroads, and other transportation systems, the law covering them is naturally varied and extensive. However, the chief features of it, so far as it affects railroads and like corporations, are given in the following extracts:

"Definitions.—The terms 'land,' 'real estate,' and 'real property,' as used in this chapter, include the land itself above and under water, all buildings and other articles and structures, substructures and superstructures, erected upon, under or above, or affixed to the same . . . all bridges, all telegraph lines, wires, poles and appurtenances; all supports and inclosures for electrical conductors and other appurtenances upon, above and under ground; all surface, underground or elevated railroads, including the value of all franchises, rights or permission to construct, maintain or operate the same in, under, above, on or through, streets, highways, or public places; all railroad structures, substructures and superstructures, tracks and the iron thereon; branches, switches and other fixtures permitted or authorized to be made, laid or placed in, upon, above or under any public or private road, street or ground. . . . A franchise, right, authority or permission specified in this sub-division shall for the purpose of taxation be known as a "special franchise." A special franchise shall be deemed to include the value of the tangible property of a person, co-partnership, association or corporation situated in, upon, under or above any street, highway, public place or public waters in connection with the special franchise. The tangible property so included shall be taxed as a part of the special franchise."

"The terms "personal estate," and "personal property," as used in this chapter, include chattels, money, things in action, debts due from solvent debtors, whether on account, contract, note, bond or mortgage . . . public stocks, stocks in moneyed corporations, and such portion of the capital of incorporated companies, liable to taxation on their capital, as shall not be invested in real estate."

"Property liable to taxation.—All real property within this state, and all personal property situated or owned within this state, is taxable unless exempt from taxation by law."

"Place of taxation of property of corporations.—The real estate of all incorporated companies liable to taxation, shall be assessed in the tax district in which the same shall lie, in the same manner as the real estate of in-

dividuals. All the personal estate of every incorporated company liable to taxation on its capital shall be assessed in the tax district where the principal office or place for transacting the financial concerns of the company shall be or if such company have no principal office, or place for transacting its financial concerns, then in the tax district where the operations of such company shall be carried on."

"Taxation of corporate stock.—The capital stock of every company liable to taxation, except such part of it as shall have been excepted in the assessment-roll or shall be exempt by law, together with its surplus profits or reserve funds exceeding ten per centum of its capital, after deducting the assessed value of its real estate, and all shares of stock in other corporations actually owned by such company which are taxable upon their capital stock under the laws of this state, shall be assessed at its actual value."

"Corporations how assessed.—The assessors shall assess corporations liable to taxation in their respective tax districts upon their assessment-rolls in the following manner:

"1. In the first column the name of each corporation, and under its name the amount of its capital stock paid in and secured to be paid in; the amount paid by it for real property then owned by it wherever situated; the amount of all surplus profits or reserve funds exceeding ten per centum of their capital, after deducting therefrom the amount of said real property and the amount of its stock, if any, belonging to the state and to incorporated literary and charitable institutions.

"2. In the second column the quantity of real property except special franchises owned by such corporation and situated within their tax district.

"3. In the third column the actual value of such real property except special franchises.

"4. In the fourth column the amount of the capital stock paid in and secured to be paid in, and of all such surplus profits or reserve funds as aforesaid, after deducting the sums paid out for all the real estate of the company, wherever the same may be situated, and then belonging to it, and the amount of stock, if any, belonging to the people of the state and to incorporated literary and charitable institutions.

"5. In the fifth column the value of any special franchise owned by it as fixed by the state board of tax commissioners.

"Assessors to apportion valuation of railroad, telegraph, telephone, or pipe line companies between school districts. The assessors of each town in which a railroad, telegraph, telephone or pipe line company is assessed upon property lying in more than one school district therein, shall, within fifteen days after the final completion of the roll, apportion the assessed valuation of the property of each of such corporations among the school districts.

"Assessment of special franchises.—The state board of tax commissioners shall annually fix and determine the valuation of each special franchise subject to assessment in each city, town, or tax district. After the time fixed for hearing complaints the tax commissioners shall finally determine the valuation of the special franchises, and shall file with the clerk of the city or town in which said special franchise is assessed a written statement duly certified by the secretary of the board of the valuation of each special franchise assessed therein as finally fixed and determined by said board. . . . The valuation so fixed by the state board shall be the assessed valuation on which all taxes based on such special franchise in the city, town or village

for state, municipal, school or highway purposes shall be levied during the next ensuing year.

“Hearing on special franchise assessment.—On making an assessment of a special franchise, the state board of tax commissioners shall immediately give notice in writing to the person, copartnership, association or corporation affected, stating in substance that such assessment has been made, the total valuation of such special franchise, and the valuation thereof in each city, town, village or tax district, and that the board will meet at its office in the city of Albany on a day specified in such notice, which must not be less than twenty nor more than thirty days from the date of the notice, to hear and determine any complaint concerning such assessment.

“Special franchise tax not to affect other tax.—The imposition or payment of a special franchise tax as provided in this chapter shall not relieve any association, copartnership or corporation from the payment of any organization tax or franchise tax or any other tax otherwise imposed by article nine of this chapter, or by any other provision of law; but tangible property subject to a special franchise tax situated in, upon, under or above any street, highway, public place or public waters, as described in subdivision three of section two shall not be taxable except upon the assessment made as herein provided by the state board of tax commissioners.

“Statement of taxes upon certain corporations by clerk of supervisors.—The clerk of each board of supervisors shall, within five days after the tax warrant is completed, deliver to the county treasurer, a statement showing the names, valuation of property and the amount of tax of every railroad corporation and telegraph, telephone and electric-light line in each tax district in the county.

“Payment of taxes by railroad and certain other corporations.—Any railroad, telegraph, telephone or electric-light company may, within thirty days after receipt of notice by the county treasurer from the clerk of the board of supervisors, pay its tax, with one per centum fees for collection to the county treasurer, who shall credit the same with such fees to the collector of the tax district, unless otherwise required by law.

“Organization tax.—Every stock corporation incorporated under any law of this state shall pay to the state treasurer a tax of one-twentieth of one per centum upon the amount of capital stock which the corporation is authorized to have, and a like tax upon any subsequent increase.

“License Tax on foreign corporations.—Every foreign corporation, except banking corporations, fire, marine, casualty and life insurance companies, co-operative fraternal insurance companies and building and loan associations, authorized to do business under the general corporation law, shall pay to the state treasurer, for the use of the state, a license fee of one-eighth of one per centum for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, to be computed upon the basis of the capital stock employed by it within this state, during the first year of carrying on its business in this state; and if any year thereafter any such corporation shall employ an increased amount of its capital stock within this state, the same license fee shall be due and payable upon any such increase.

“Franchise tax on corporations.—Every corporation, joint stock company or association incorporated, organized or formed under, by or pursuant to law in this state, shall pay to the state treasurer annually an annual tax to be computed upon the basis of the amount of its capital stock employed with-

in this state and upon each dollar of such amount, at the rate of one-quarter of a mill for each one per centum of dividends made and declared upon its capital stock during each year, ending with the thirty-first day of October, if the dividends amount to six or more than six per centum upon the par value of such capital stock. If such dividend or dividends amount to less than six per centum upon the par value of such capital stock, the tax rate shall be at the rate of one and one-half mills upon such portion of the capital stock at par as the amount of capital employed within this state bears to the entire capital of the corporation. If no dividends are made or declared, the tax shall be at the rate of one and one-half mills upon each dollar of the appraised capital employed within this state." (Where a corporation may have more than one kind of stock, upon one of which dividends are paid at the rate of one per cent. or over and upon another at less than six per cent. taxes will be levied upon these two kinds of stock separately on the basis provided above). . . . "Every corporation, joint stock company or association organized, incorporated or formed under the laws of any other state or country shall pay a like tax for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, to be computed upon the basis of the capital employed by it within this state.

"Certain corporations exempt from tax on capital stock.—Joint stock companies or associations operating elevated railroads or surface railroads not operated by steam, or formed for supplying water or gas for electric or steam heating, lighting or power purposes."

"Additional franchise tax on transportation and transmission corporations and associations.—Every corporation and joint stock association formed for steam surface railroad, canal, steamboat, ferry, express, navigation, pipeline, transfer, baggage express, telegraph, telephone, palace car or sleeping-car purposes, shall pay for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, an annual excise tax or license fee which shall be equal to five-tenths of one per centum upon its gross earnings within the state, which shall include its gross earnings from its transportation or transmission business originating and terminating within this state, but shall not include earnings derived from business of an interstate character."

"Franchise tax on elevated railroads or surface railroads not operated by steam.—Every corporation, joint-stock company or association operating any elevated railroad or surface railroad not operated by steam shall pay to the state for the privilege of exercising its corporate franchise or carrying on its business in such corporate or organized capacity within this state, an annual tax which shall be one per centum upon its gross earnings from all sources within this state, and three per centum upon the amount of dividends declared or paid in excess of four per centum upon the actual amount of paid-up capital employed by such corporation, joint-stock company or association.

"Reports of corporations.—Corporations liable to pay a tax under this article shall report as follows:

"1. Corporations paying franchise tax.—Every corporation, association or joint-stock company liable to pay a tax under section one hundred and eighty-two of this chapter shall, on or before November fifteenth in each year, make a written report to the comptroller of its condition at the close of its business on October thirty-first preceding, stating the amount of its authorized capital stock, the amount of stock paid in. the date and rate per cent.

of each dividend declared by it during the year ending with such day, the entire amount of the capital of such corporation, and the capital employed by it in this state during the year.

"2. Transportation and transmission companies.—Every transportation or transmission corporation, joint-stock company or association liable to pay an additional tax under section one hundred and eighty-four of this chapter, shall also, on or before August first in each year, make a written report to the comptroller of its condition at the close of its business on June thirtieth preceding, stating the amount of its gross earnings from all sources and the amount of its gross earnings from its transportation or transmission business originating and terminating within this state.

"3. Elevated and surface railroad companies.—Every corporation, joint-stock company or association liable to pay a tax under section one hundred and eighty-five of this chapter shall, on or before August first of each year, make a written report to the comptroller of its condition at the close of its business on June thirtieth preceding, stating the amount of its gross earnings from business done in this state, the amount of dividends of every nature declared or paid during the year ending June thirtieth, the authorized capital of the company and the amount of capital stock actually issued and outstanding.

"Powers of comptrollers to examine into the affairs of corporation.—In case any report required by any of the preceding sections of this article shall be unsatisfactory to the comptroller, or if any such report is not made as herein required, the comptroller is authorized to make an estimate of the dividends paid by such corporation and the value of the capital stock employed by it, from any such report or from any other data, and to order and state an account according to the estimate and value so made by him for the taxes, percentage and interest due the state for such corporation, association, joint stock company, person or partnership. The comptroller shall also have power to examine or cause to be examined in case of a failure to report or in case the report is unsatisfactory to him, the books and records of any such corporation, joint-stock association, company, foreign banker, person or partnership, and may hear testimony and take proofs material for his information, either personally or he may appoint a commissioner by a written appointment under his hand and official seal for that purpose.

"Exemptions from other state taxation.—The personal property of every corporation, company, association or partnership, taxable under this article, other than for an organization tax, shall be exempt from assessment and taxation upon its personal property for state purposes.

"Application of taxes.—The taxes imposed by this article and the revenues thereof shall be applicable to the general fund of the treasury and to the payment of all claims and demands which are a lawful charge thereon."⁸⁰

It will be observed that in the case of street railways, etc., it is provided that a special franchise shall be deemed to include the value of the tangible property of a person, copartnership, association or corporation situated in, upon, under or above any street, highway, public place or public waters in connection with a special franchise. The tangible property so included shall be taxed as part of the special franchise. Now, as the State Board of Tax Commissioners was given power under the Act of 1899 to assess the special franchises, the complete taxing of street railways and other corporations

⁸⁰ The Tax Law of the State of New York, 1904, Bender Edition.

making use of the public highways was handed over to the State Board and brought under a uniform system. Some of the conditions which led up to this situation are thus stated by Mr. Deyo, the Secretary of the Board. "The local conditions vary greatly in different cities. The municipalities insist upon various conditions. Some say the railways should keep the road in repair within two feet from the outside, and there are all sorts of similar conditions. In one city the street railroads are obliged to pave the streets from curb to curb. There are so many conditions that enter into the value of a franchise in a city that it seems to us in this State, very hard to fix any law that could be so nearly just as the special franchise law, if honestly administered. Of course, you have the element of local influences too, and when this law was passed the corporations raised the cry 'For Heaven's sake deliver us from the hands of the local assessors.' The Government, then, has provided this means of valuation, which is a great advance on the old system. The steam railroads are affected by this law only to the extent that they are on the public streets and highways in crossing. They are not valued by any single body, as they are in New Jersey. Their property, their tracks, their stations, etc., are left entirely to the local authorities."⁸¹

A number of the larger corporations in the city of New York, whose property was particularly affected by the special franchise law, objected to the new system and appealed from it on the following grounds: "That the act which rendered the special franchise subject to taxation was enacted in violation of the constitution of the United States, because of impairing the obligation of contracts, and in violation of the provision of the Constitution of the State of New York which secures Home Rule to towns, cities, and villages; that the statute was impracticable and was difficult of execution, and that it was void for this reason, and finally that the assessments were excessive."⁸²

On April 28th, 1903, the Court of Appeals, the highest tribunal in the State, upheld unanimously the constitutional and administrative validity of the special franchise tax law at every point. The law was passed in 1899 and the first valuations under it were made in 1900. "Five of the corporations affected by the Court of Appeals' decision have appealed to the United States Supreme Court, but it is generally believed by careful observers that the highest court is likely to affirm the Court of Appeals upon this matter of state concern, it being the conceded right of a State to determine what property shall be taxed and in what manner under the conditions found by our highest court in this issue."⁸³

The arguments of counsel and the judgments of the courts on this most important question as to the present and future of property and taxation, are very interesting and instructive. The impossibility of an adequate valuation by local assessors of franchises or intangible property, which is already so important a form of exchangeable economic right, is set forth in the written opinion of the Honorable Robert Earl, Judge of the Supreme Court at Albany and Referee in the cases relating to the special franchise tax. "They (franchises) are intangible property generally, without the market or saleable value other real estate has for the guidance of local assessors. They most always extend through several taxing districts and frequently through several municipalities. It is at least very difficult to assess their value. With the

⁸¹ Ont. Com. Interviews.

⁸² From Opening Argument of the Attorney General in Court of Appeals.

⁸³ Annual Report of State Board of Tax Commissioners, 1904.

best of advantages and with the aid of expert skill and great experience and study it is difficult, if not impossible, to reach a satisfactory basis for their valuation. We know from our observation and experience how incompetent local assessors are to deal with such property generally, not wholly within any assessment district. Under such circumstances, with this new species of property, generally having no precise circumscribed situs like other real property, the Legislature in this act made this property taxable and committed its assessment to the Other State Board of Tax Commissioners, who can study the problems involved in the assessment and call to their assistance expert aid and report to all needed sources of information as to values. Having all the franchises in the State to assess, they can obtain knowledge and skill in valuing such property, which local assessors could never be expected to obtain.”⁸⁴

Again, with reference to the objection that the taxing of franchises may involve the violation of contracts, Judge Earl says: “It is said that these franchises cannot now be taxed because they were not taxable at the time they were granted. They were not by any law or contract exempted from taxation. They were property of immense value under the protection of the Government and there was no reason in their nature for exempting them from taxation. There was no contract expressed or implied that they should never be compelled to bear their share of public burdens like other property. The Legislature, having unlimited power of taxation, may increase taxation and may bring within its scope new kinds of property values and thus disappoint the plans and expectations of many in all business relations. It may for the first time impose succession or transfer taxes, income taxes and many others that can be imagined and thus disturb business relations, investments of property and contracts between individuals in reliance upon existing laws, and yet such taxes cannot be condemned as violating the obligation of contracts. Persons who deal with the State and take grants from it do so with full knowledge of its power of taxation, and if they wish to be exempt from taxation as to any property or rights derived from the State, they must acquire such exemption by unmistakable stipulations in their contracts.

“There are among these franchises some which were granted upon considerations which were stated in the grants to be in full compensation for the franchises granted, thus showing that the considerations were compensation for the property granted. No just inference can be drawn from this that the considerations were in full or instead of taxation in common with other property. The grantees of such franchises are in no better or other condition as to taxes than the grantees of other lands of the State for full compensation.”⁸⁵

It was contended by those who opposed the assessment of franchises that “a special franchise has no ascertainable value beyond the value of the tangible property in connection with it. The right to use the streets cannot be valued. Its value cannot be separated from the value of other property and rights. Hence the Act which requires a State Board to value each special franchise requires an impossibility and cannot be executed.” In giving his decision on the argument presented on this point, Judge Earl concluded an important judgment as follows: “I repeat, these assessors were not bound to view these franchises as abstractions apart from any use to which they could be put, but they had the right to consider, and as faithful officers were bound

⁸⁴ Special Franchise Tax Cases, Opinions of Robert Earl, Referee, 1901-1902, p. 18.

⁸⁵ Ibid. pp. 32-33.

to consider the uses for which they were intended in the streets, and to which they had been actually applied. Suppose, what constitutes the special franchise of any one of these corporations, should be put in the market for sale? Can it be doubted that it would sell for a substantial price, a sum which business men could determine with sufficient accuracy for business purposes? Hence I think it is clear that these special franchises could be assessed for the purposes of taxation. The assessment is undoubtedly attended with great difficulties, but it can be made with such an approximation to accuracy as will satisfy all the requirements of the law and of the constitution.”⁸⁶

Other able and interesting discussions as to the various meanings and the special economic values of franchises are afforded by Mr. J. N. Fiero, Counsel, in his written opinion submitted to the Board of Tax Commissioners, and by the Honorable John Cunneen, Attorney-General of the State, in his argument before the Court of Appeals on the special franchise cases.

Mr. Fiero in summing up his argument as to the valuation of special franchises, says, “It would seem, therefore, that the practical and practicable method for arriving at the entire value of corporate assets with a view to assessment of the ‘Special Franchise’ necessitates a consideration of the cost of reproduction of the real estate, of the earning capacity of the property as a whole, and as an element going to make up the corporate value by showing the earning capacity, the value of the capital stock and surplus, and the actual value of the bonded indebtedness. That in addition there must be considered all the surrounding and attending facts and circumstances which tend to enhance value or aid in ascertaining value, as well as such facts and circumstances of a character which in anywise tend to detract from or depreciate the value of the corporate property, as, for instance, the amount of floating debt or liabilities of any kind not included in bonded indebtedness.

“It is impossible to give any hard and fast rule for ascertaining the value of corporate property of varying classes and different character, and only very broad general rules can be laid down, which must be modified in particular cases, according to the facts and circumstances bearing upon each individual instance.”⁸⁷

An interesting and important point was passed upon by the minor Appellate Court in the State, when in the case of the Buffalo Street Railway Company it was held “that a percentage payment to a city upon gross receipts is in the nature of a tax and is deductible from the tax accruing upon the valuation fixed by this Board. It is expected that appeal from this decision will be taken, but until a ruling to the contrary is handed down by the Court of Appeals such deductions are in compliance with the law. This has special application to New York City in a number of minor valuations—where rentals are payable to that municipality upon certain street rights—converted into special franchises, under chapter 712 of the Laws of 1899.”⁸⁸

The State Board of Tax Commissioners in their latest report make the following observations on the actual condition and present trend of taxation in the American States. “With scarcely an exception, in every State there is in operation a system of taxation chaotic and unscientific. The former

⁸⁶ Ibid. pp. 43-44.

⁸⁷ Assessment of Special Franchises, Opinion by J. Newton Fiero, 1899.

⁸⁸ Report of State Board of Tax Commissioners, 1904, p. 7.

State Comptroller, in endeavoring to show the confused, illogical and conflicting condition of our various laws for raising revenue said "They have been largely adopted from time to time simply to meet increasing expenditures of the State, with little regard to economic or any just principle and framed rather in accord with the witty Frenchman's definition of taxation, the plucking of the goose in such a manner as to get the most feathers with the least squawking, . . . In the earlier days of our republic, when little revenue was required for the simple wants of state and municipal government, taxes were levied on specific objects, real estate bearing the chief burden. Since 1850 the rapid concentration of population in cities, the aggregation of wealth, the constant formation and evolution of new forms of industry, the growth of railroads and other public service corporations have made necessary a modification of tax systems in order to reach new and less tangible forms of wealth. . . . The constantly increasing demands for municipal expenses have exercised the wisdom and ingenuity of legislatures to provide ways and means to furnish sufficient revenue. There is a strong popular demand in all the states for taxation of the franchises of corporations and a noticeable tendency to change the basis of assessment from gross receipts to an *ad valorem* basis. In the Southern States the tendency is to levy taxes on licenses, privileges and incomes, while many states incline to inquisitorial methods to ascertain the nature and value of property. In the Eastern States there is a growing sentiment in favour of relieving personal property from direct taxation and substituting franchise taxes, excise taxes, and inheritance taxes; all of which ultimately involve the taxation of personal property." ⁸⁹

As in the case of Massachusetts the report of the State Board of Tax Commissioners makes no separate returns of the taxes contributed by the railroad companies. They are simply included with the other taxes on corporations. The report for 1902, however, gives the assessed value of the railroads in each county and the proportion of the county valuation which they represent. As this will afford an interesting basis for comparison with Ontario assessments, it is given below. No return is given of the amount of taxes paid by the railroad companies in each county, and indeed each local municipality within the county levies a separate rate. Thus in the county of Allegany there are twenty-nine different rates of taxation levied.

The State Comptroller's Report gives the amount of special State taxes paid by the different transportation companies including, in addition to the regular railroad company, street railways, surface and elevated, and express companies. These are the corporation taxes levied upon capital stock and upon gross earnings. A table is given showing the amount of taxes paid under these two heads by representative transportation companies operating in the State.

From the Comptroller's report another table is given showing the amount of revenue obtained by the State from the various sources of income.

Statement showing the ratio assessment of Railroad Corporations to total assessment by counties for the year 1902." ⁹⁰

⁸⁹ Report of the State Board of Tax Commissioners for 1904, pp. 11-12.

⁹⁰ Report of the State Board of Tax Commissioners, 1903, pp. 394-395.

Counties.	Assessed Value of Steam Rail- roads.	Ratio of Railroad to total County Assessment.	Counties.	Assessed Value of Steam Rail- roads.	Ratio of Railroad to total County Assessment.
Albany.....	\$ 6,763,992	.066	Oneida.....	\$ 4,716,066	.076
Allegany.....	951,873	.061	Onanadaga.....	7,438,302	.060
Broome.....	2,978,046	.085	Ontario.....	31,230,500	.104
Cattaraugus.....	3,028,259	.120	Orange.....	2,944,756	.073
Cayuga.....	2,476,199	.072	Orleans.....	969,208	.059
Chautauqua.....	4,295,794	.108	Oswego.....	2,497,853	.093
Chemung.....	1,900,853	.075	Otsego.....	1,001,480	.046
Chenango.....	1,600,725	.099	Putnam.....	734,870	.080
Clinton.....	905,459	.117	Renssaeler.....	4,049,433	.052
Columbia.....	4,652,636	.191	Rockland.....	619,995	.037
Courtland.....	941,894	.068	St. Lawrence.....	2,305,647	.056
Delaware.....	1,578,942	.105	Saratoga.....	2,178,430	.087
Duchess.....	5,492,055	.123	Schenectady.....	2,995,075	.122
Erie.....	27,639,637	.095	Schoharie.....	432,859	.035
Essex.....	989,158	.087	Schuyler.....	867,598	.127
Franklin.....	1,114,580	.099	Seneca.....	1,073,325	.068
Fulton.....	364,226	.024	Steuben.....	3,982,310	.114
Genesee.....	4,747,955	.201	Suffolk.....	2,187,150	.042
Greene.....	385,200	.029	Sullivan.....	1,158,699	.193
Hamilton.....	126,650	.035	Tioga.....	2,133,094	.153
Herkimer.....	3,087,926	.117	Tomkins.....	846,843	.049
Jefferson.....	1,851,630	.047	Ulster.....	1,590,364	.058
Lewis.....	393,943	.037	Warren.....	277,400	.029
Livingston.....	3,076,206	.115	Washington.....	1,110,300	.059
Madison.....	2,245,175	.115	Wayne.....	3,418,371	.137
Munroe.....	8,557,427	.055	Westchester.....	7,454,659	.038
Montgomery.....	3,534,300	.140	Wyoming.....	1,024,632	.067
Nassau.....	1,232,620	.046	Yates.....	538,295	.050
New York(greater)	65,579,465	.017			
Niagara.....	3,863,674	.083	State.....	\$230,134,013	.038

TAXES ON TRANSPORTATION COMPANIES.⁹¹

Name of Company.	On Capital Stock.	On Gross Earnings.
Adam's Express.....	\$ 2,800	\$ 842
American Express.....	5,889	12,994
Boston and Albany Railroad.....	9,089	
Brooklyn City Railroad.....	21,600	
Brooklyn Heights Railroad.....	31,765	
Brooklyn Rapid Transit.....	44,676	
Buffalo, Rochester and Pittsburg Railway.....	12,295	3,857
Delaware and Hudson Railway.....	21,194	18,692
Erie Railroad.....	31,713	14,645
Fitchburgh Railroad.....	8,834	
Hartford and Connecticut Western Railroad.....	1,388	
Lakeshore and Michigan Southern Railroad.....	4,835	1,539
Lehigh Valley Railroad.....		4,716
Lehigh Valley Railway.....	8,850	
Long Island Railroad.....	14,479	32,699
New York Central and Hudson River Railroad.....	188,324	58,795
New York, Chicago and St. Louis Railroad.....	4,297	84
New York and Harlem (Horse) Railroad.....	10,000	
New York and Harlem (Steam) Railroad.....	23,333	
New York Lacquawanna and Western Railroad.....	15,000	

⁹¹ Report of the Comptroller of the State of New York, 1904, pp. 310-316.

TAXES ON TRANSPORTATION COMPANIES.—Continued.

Name of Company.	On Capital Stock.	On Gross Earnings.
New York, Ontario and Western Railroad	26,747	7,521
New York and Ottawa Railroad		541
Oswego and Syracuse Railroad	2,970	
Pennsylvania Railroad	13,130	4,534
Pullman Car Co.	4,046	3,915
Rensselaer and Saratoga Railroad	15,103	
Rome, Watertown and Ogdensburg Railroad	18,266	
Thousand Island Steamboat Co	150	296
United States and Canada Railroad	17	44
United States Express	1,260	663
Utica, Chenango and Susquehanna Railroad	6,000	
Wells, Fargo Express	900	2,658
Western, New York and Pennsylvania Railway	2,250	
Total	688,901	816,976

TAX RECEIPTS OF THE STATE OF NEW YORK FOR THE YEAR ENDING SEPTEMBER
30th 1903.

Direct State taxes	\$ 938,777 05
Tax on corporations	6,808,809 70
Tax on organization of corporations	360,999 92
Tax on transfers (of property)	4,665,735 97
Liquor tax	815,147 92
Non-resident taxes	38,334 40
Insurance department, for expenses	244,502 04
Bank department for expenses	52,948 77
Railroad Commission, for expenses	71,210 40
Fees of public offices, including fines, etc.	188,678 44
State institutions, sales, etc.	383,899 19
Interest on deposits	123,803 94
Notary's fees	59,695 00
Pool tax	180,818 05
U. S. Government, for Soldiers' and Sailors' Home ...	170,913 03
U. S. Government, for expenses in War with Spain	36,309 88
Sales of lands	66,027 56
Canals, principal and interest on bonds and deposits	544,012 02
Trust funds	848,906 66
Miscellaneous receipts	73,968 76

Total\$24,309,498 70

Annual Report of the Comptroller, 1904, p. IX.

Of this total the amount paid by the railroads was \$4,846,694.54, as given in the Railroad Commissioner's Report, 1903, Vol. 2, p. 57.

PENNSYLVANIA.

Like New York, the State of Pennsylvania has realized very largely the principle of the separation of the state and municipal sources of revenue. One of the chief means by which this has been accomplished has been the selection for more or less exclusive state taxation, of the various corporations carrying on business within the State limits. Conspicuous among these are the railroad corporations and others connected with trans-

portation and transmission. At the same time, there remains considerable connection between state and municipal finances, inasmuch as, on the one hand, the State still receives a portion of the direct taxes upon the individual property, and on the other, it distributes to the municipalities for local purposes the greater part of certain taxes levied by the State upon bonds, mortgages and other securities held as part of the personal property of individuals or corporations. In the case of railroads and other transportation corporations, however, state and local taxation are for the most part distinct.

Historically, Pennsylvania has been a pioneer among the States in the matter of developing a special system of taxation for corporations. As regards the treatment of the railroads, the following historical summary of the Pennsylvania practice is given by Professor Seligman: "In Pennsylvania, railroads were included in the general tax of 1840, and were assessed on their personality and on their dividends. In 1844 the tax on personality was abandoned, but the general corporation tax on capital and dividends continued with some modifications for over two decades. In 1860 a special tonnage tax was levied on transportation companies at the rate of two, three and five cents per ton of freight carried, and an additional tax of three-quarters of one per cent. was laid on their gross receipts. The former was declared unconstitutional by the Federal courts, and, as a result, by the Act of 1874, all transportation companies were taxed only on their capital stock, at the rate of nine-tenths of a mill for each one per cent. of the dividends, or at the rate of six mills, if there were no dividends. In 1879 the dividends and earnings taxes were slightly changed, and the law was passed which, with the amendments of 1885, 1889 and 1891, is enforced to-day."⁹²

As in the case of Massachusetts and New York, Pennsylvania includes railroads under its general system of corporate taxation. Like New York it levies a special tax, also, on the gross earnings of the railroads and other transportation and transmission companies.

Except in the cities of Philadelphia and Pittsburg, the railroads are exempt from local taxes on all property required for the necessary operation of their corporate franchises. All other property held by a railroad company is liable to taxation by municipalities in the usual way.

In Philadelphia and Pittsburg the railroads are subject to local taxation on their terminals and other real estate, though in Philadelphia the tracks, water-tanks, etc., are exempt.

In common with all other corporations, except banks and foreign insurance companies, the railroads are required to pay upon the actual value of their capital stock a tax of five mills on the dollar. It will be observed that this does not include bonds of the railroads, which are taxed as personal property, but only to those individuals or corporations owning them who are residents of the State. This tax on bonds is levied at the rate of four mills on the dollar. Though it is a tax on personal property, and is collected by the officials of the counties, they pay it over, in the first instance, to the State treasurer, who, however, in the end, returns about three-fourths of it to the treasurers of the counties. For the sake of convenience the tax is required to be paid by the treasurers of the corporations issuing the bonds. The tax is thus virtually an indirect tax upon the corporations.

⁹² Essays in Taxation by E. R. A. Seligman, p. 154.

Where the lines of the railroads extend beyond the State boundary, the companies are taxed upon that proportion of their capital stock which is measured by the ratio of the mileage within the State to the total mileage of the system. This arrangement, as it operates at present, is based on the decisions of the courts. The same rule applies to telegraph and telephone companies, palace car companies, express companies, etc. All taxes on capital stock are applied to state purposes only.

A special tax upon gross earnings is levied upon all transportation and transmission companies, including steam and electric railroads, telegraph, telephone and express companies. The rate of taxation is eight mills upon each dollar of gross earnings derived from business done within the State.

In addition to the regular annual taxes, there is a bonus tax which, like the corporation or license tax of New York State, is levied once for all upon the amount of authorized capital stock, when the company goes into operation. It is also levied upon any subsequent increase in the capital stock of a corporation. This bonus tax is one-third of one per cent. upon the amount of authorized capital stock. The tax applies to all corporations except building and loan associations, and, therefore, applies to railroads and other transportation companies.

The essential features of the law upon which the taxation of railroads and other companies rests are contained in the following passages from the statutes. Several extracts from decisions of courts are also given, as indicating the interpretation which has been put upon the law on some essential points:

CAPITAL STOCK TAX.

"The Auditor General and State Treasurer, or any agent appointed by them or either of them, are hereby authorized to examine the books and papers of any corporation, institution, company, association or limited partnership made taxable by this Act, to verify the accuracy of any return made under the provisions of this or any other Act of Assembly.

"That hereafter, except in the case of banks, savings institutions and foreign insurance companies, it shall be the duty of the president, chairman or treasurer of every corporation having capital stock, every joint stock association and limited partnership whatsoever, now or hereafter organized or incorporated by or under any law of this commonwealth, and of every corporation, joint stock association and limited partnership whatsoever now or hereafter incorporated or organized by or under the laws of any other state or territory of the United States, or by the United States, or by any foreign government, and doing business in and liable to taxation with this commonwealth, or having capital or property employed or used in this commonwealth, by or in the name of any limited partnership, joint stock association, company or corporation whatsoever, association or associations, co-partnerships, person or persons, or in any other manner, to make a report in writing to the Auditor General in the month of November, one thousand, eight hundred and ninety-two, and annually thereafter, stating specifically:

- 1st. Total authorized capital stock.
- 2nd. Total authorized number of shares.
- 3rd. Number of shares of stock issued.
- 4th. Par value of each share.

- 5th. Amount paid in to the treasury on each share.
- 6th. Amount of capital paid in.
- 7th. Amount of capital on which dividend was declared.
- 8th. Date of each dividend declared during said year ended with first Monday in November.
- 9th. Rate per centum of each dividend declared.
- 10th. Amount of each dividend during the year with the first Monday in said month.
- 11th. Gross earnings during the year.
- 12th. Net earnings during said year.
- 13th. Amount of surplus.
- 14th. Amount of profit added to sinking fund during said year.
- 15th. Highest prices of sales of stock between the first and fifteenth days of November aforesaid.
- 16th. Highest price of sales of stock during the year aforesaid.

17th. Average price of sales of stock during the year; and in every case two of the following named officers of such corporation, namely: The President, Chairman, Secretary and Treasurer, after being duly sworn or affirmed to do and perform the same with fidelity and according to the best of their knowledge and belief, shall, between the first and fifteenth day of November of each year estimate and appraise the capital stock of the said company at its actual value in cash, not less, however, than the average price which said stock sold for during the said year, and not less than the price or value indicated or measured by net earnings or by the amount of profit made and either declared in dividends or carried into surplus or sinking fund, and when the same shall have been so truly estimated and appraised they shall forthwith forward to the Auditor General a certificate thereof accompanied with a copy of the said oath or affirmation signed by them and attested by a magistrate or other persons duly qualified to administer same: Provided, that if the Auditor General and State Treasurer, or either of them, is not satisfied with the appraisement and valuation so made and returned, they are hereby authorized and empowered to make a valuation thereof based upon the facts contained in the report herein required, or upon any information within their possession or that shall come into their possession, and to settle an account upon the valuation so made by them for taxes, penalties and interests due the commonwealth thereon, with a right to the company dissatisfied with any settlement so made against it to appeal therefrom in the manner now provided by law; and in the event of the neglect or refusal of the officer of any corporation, company, or limited partnership, for a period of sixty days to make the report in appraisement to the Auditor General as herein provided, it shall be the duty of the Auditor General and State Treasurer to estimate a valuation of the capital stock of such defaulting corporation and settle an account for taxes, penalties and interest thereon, from which settlement there shall be no right of appeal.

“That every corporation, and company whatsoever, from which a report is required, shall be subject to and pay into the commonwealth annually the tax at the rate of five mills upon each dollar of the actual value of its whole capital stock of all kinds, including common, special and preferred.....Provided, that for the purposes of this Act interests in limited partnerships or joint stock associations shall be deemed to be capital stock and taxable accordingly; provided, also, that corporations, limited

partnerships and joint stock associations liable to tax on capital stock under this section shall not be required to make any report or pay any further tax on the mortgages, bonds and other securities owned by them in their own right, but corporations holding such securities as trustees, executors, administrators, guardians, or in any other manner shall return and pay the tax imposed by this Act upon all securities so held by them as in the case of individuals.

Judgments under Capital Stock Tax.

"The mode which the State of Pennsylvania adopted, to ascertain the proportion of the company's property upon which it should be taxed in that State, was by taking as a basis of assessment such proportion of the capital stock of the company as the number of miles over which it ran cars within the State bore to the whole number of miles, in that and other States, over which its cars were run. This was a just and equitable method of assessment, and, if it were adopted by all the States through which these cars ran, the company would be assessed upon the whole value of its capital stock, and no more."⁹³

"Foreign corporations, of like nature to corporation lines, whose activities extend into and through many states, and whose facilities for doing business in one state increase the same in another, where the relative values of the tangible property representing capital within and without the state cannot be accurately ascertained, are to be taxed in the proportion which the length of the whole line bears to the length of that within the State."⁹⁴

Corporate Loans on Indebtedness.

"That hereafter it shall be the duty of the treasurer of each private corporation incorporated by or under the laws of this commonwealth, or the laws of any other State or of the United States, and doing business in this commonwealth, upon the payment of any interest on any scrip, bond or certificate of indebtedness, issued by said corporation to residents of this commonwealth, and held by them, to assess the tax imposed and provided for state purposes upon the nominal value of each and every said evidence of debt, and to report on oath annually on the first Monday of November to the Auditor General the amount of indebtedness of the corporation owned by the residents of this commonwealth, as nearly as the same can be ascertained, and it shall be his further duty to deduct three mills on every dollar of the interest paid as aforesaid and return the same into the State Treasury within fifteen days after the thirty-first day of December in each year, and his compensation for his services shall be the same that city and borough treasurers receive for similar services.

"Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by authority of the same, that from and after the passage of this Act, all personal property of the classes hereinafter enumerated, owned, held or possessed by any person, persons, co-partnerships or unincorporated association or company, resident, located or liable to taxation within this commonwealth, or by any joint stock company or association, limited partnership, bank or corporation whatsoever, formed, erected or incorporated by, under or in pursuance of, any law of this commonwealth or of the United States, or of any other state or government, and liable to taxation within this commonwealth, whether such personal property be owned, held or

⁹³ Extract from the opinion of the U. S. Supreme Court, Pullman's Palace Car Co. vs Penna., 141 U. S., 18.

⁹⁴ Com. vs. Western Union Tel. Co., 13 W.N.C., 331.

possessed by such person or persons, co-partnership, unincorporated association, company, joint stock company, or association, limited partnership, bank or corporation, in his, her, their or its own right, or as active trustee, agent, attorney-in-fact, or in any other capacity for the use, benefit or advantage of any other person, persons, co-partnership, unincorporated association, company, joint stock company, or association, limited partnership, bank or corporation, is hereby made taxable annually for state purposes at the rate of four mills on each dollar of the value thereof.

Judgment.

"The tax on the bonds of corporations is not in any sense or in any degree a tax on the corporation or its property, but on the individual citizen of the state who holds the bonds. The corporation is chargeable with it only as a collector, and by reason of default in the duty to collect. The duty of the corporation is to use diligence to ascertain the residence of its bondholders, and whether it has or has not done so is a question of fact in each case to be determined by the circumstances and the evidence."⁹⁵

Tax on Gross Receipts of Corporations.

"That every railroad company, pipe line company, conduit company, steamboat company, canal company, slack water navigation company, transportation company, street passenger railway company, and every other company, joint stock association or limited partnership, now or hereafter incorporated or organized by or under any law of this commonwealth, or now or hereafter organized or incorporated by any other state or by the United States or any foreign government, and doing business in this commonwealth, and owning, operating or leasing to or from another corporation, company, association, joint stock association, or limited partnership, any railroad pipe line, slack water navigation, street passenger railway, canal or other device for the transportation of freight or passengers or oil, and every telephone or telegraph company incorporated under the laws of this or any other state or of the United States and doing business in this commonwealth, and every firm, co-partnership, or joint stock company or association doing express business in this commonwealth, and every electric light company and every palace car and sleeping car company, incorporated or unincorporated, doing business in this commonwealth, shall pay to the State Treasurer a tax or eight mills upon the dollar upon the gross receipts of said corporation, company or association, limited partnership, firm or co-partnership, received from passengers and freight traffic transported wholly within this State, and from telegraph, telephone or express business done wholly within this State, or from business of electric light companies and from the transportation of oil done wholly within this State, the said tax shall be paid semi-annually upon the last days of January and July in each year, and for the purpose of ascertaining the amount of the same, it shall be the duty of the treasurer or other proper officer of the said company, firm, co-partnership, limited partnership, joint stock association or corporation, to transmit to the Auditor General a statement, under oath or affirmation of the amount of gross receipts of the said companies, co-partnerships, corporations, joint stock associations or limited partnerships derived from all

⁹⁵ Com. vs. Lehigh Valley R. R. Co., 186 Pa., 235.

sources, and of gross receipts from business done wholly within the State, during the preceding six months ending on the first days of January and July in each year ;and if any such company, firm, co-partnership, joint stock association, association or limited partnership or corporation, shall neglect or refuse for a period of thirty days after such tax becomes due, to make said returns or to pay the same, the amount thereof with an addition of ten per centum thereto shall be collected for the use of the commonwealth as other taxes are recoverable by law; provided, that in any case where the works of one corporation, company, joint stock association or limited partnership are leased to and operated by another corporation, company, association or limited partnership, the taxes imposed by this section shall be apportioned between the said corporations, companies, associations or limited partnerships in accordance with the terms of their respective leases or agreements, but for the payment of the said taxes the commonwealth shall first look to the corporation, company, association or limited partnership operating the works, and upon payment by the said company, corporation, association or limited partnership of a tax upon the receipts as herein provided derived from the operation thereof, the corporation, company, joint-stock association or limited partnership from which the said works are leased, shall not be held liable under this section for any tax upon the proportion of said receipts received by it as rental for the use of said works.

"Be it enacted, etc., That the Auditor General and State Treasurer, or any agent appointed in writing by them, or either of them, are hereby authorized to examine the books and papers of any corporation, institution, company or association or limited partnership made taxable by this Act, or any of its supplements, to verify the accuracy of any return made under the provisions of this or any other Act of Assembly.

"Every corporation, limited partnership, joint stock association, partnership, firm or association of individuals, incorporated or unincorporated, engaged in the business commonly known as express business, shall pay to the State Treasurer, for the use of the commonwealth, a tax of eight mills upon the amount of their gross receipts from express business done wholly within this State, the said tax shall be paid semi-annually upon the last days of January and July in each year, and for the purpose of ascertaining the amount of the same, it shall be the duty of the treasurer or other proper officer of the said corporation, limited partnership, joint stock association, partnership, firm or association of individuals, to transmit to the Auditor General a statement, under oath or affirmation, of the amount of gross receipts of the said corporation, limited partnership, joint stock association, partnership, firm, or association of individuals, incorporated or unincorporated, derived from all sources, and of the gross receipts from business done wholly within the State, during the preceding six months ending upon the first days of January and July in each year; and if any such corporation, limited partnership, joint stock association, partnership, firm or association of individuals, incorporated or unincorporated, shall neglect or refuse for a period of thirty days after such tax, the amount thereof, with an addition of ten per centum thereto, shall be collected for the use of the commonwealth as other taxes are recoverable by law. No other tax upon express receipts, or upon the privilege of transacting express business, shall be collected without further authority of law to be hereafter enacted; providing, that this Act shall not be construed to repeal or take the place of the tax upon capital stock now imposed by law; but the tax on gross receipts hereby imposed shall be in addition to the tax on capital stock imposed by existing law upon any of the corporations, companies or associations hereby taxed.

Judgments.

"A railroad corporation of a state is liable to taxation by such state upon its receipts, for the mileage within the state, from transportation by continuous carriage from a point in the state to another point in the state, but over a line which, in its course between those points passes out of the state into another state and back again into the state."⁹⁶

"In the carriage of freight and passengers between two points in one state, the mere passage over soil of another state, does not render that business foreign, which is otherwise domestic.

"The tax upon the whole of the gross receipts of an express company is not illegal double taxation, although the amounts paid by the express company to railroad companies for transportation are included in the gross receipts of the railroad companies and taxed as such."⁹⁷

"The Act (taxing gross receipts) is valid as to all receipts derived from commerce, which is wholly confined within the limits of the state, although the company doing the business is a foreign corporation. If such corporation comes into Pennsylvania and carries on here the business of internal commerce, its receipts therefrom may be taxed precisely as if it were a domestic corporation."⁹⁸

Bonus.

"That all corporations, limited partnerships or joint stock associations" (with certain exceptions not affecting railroads) "shall pay to the State Treasurer for the use of the commonwealth, a bonus of one-third of one per centum upon the amount of their capital actually employed or to be employed wholly within the State of Pennsylvania, and a like bonus upon each subsequent increase of capital so employed."⁹⁹

Some particulars as to the municipal taxation of railroads in Philadelphia were obtained from Mr. Gratz, the city tax commissioner. Incidentally he stated that "the State of Pennsylvania has to-day an overflowing treasury; its debt is practically nothing, and it has so much money in its treasury that at the next session of the Legislature in all probability there will be appropriations amounting to several millions of dollars for charitable institutions."¹⁰⁰

He explained that formerly the city obtained no taxes from the railroad property within it, but as the railroads held so much valuable property in the cities of Philadelphia and Pittsburg it was considered that they should contribute something towards the revenues of these cities. Hence a tax was levied upon the more valuable portion of their real estate. "We assess for municipal purposes their depots and the ground that they use for all purposes other than that of the main railway track. I suppose the assessment of the Pennsylvania Railroad Company in Philadelphia will be about eight or ten millions. We tax the sidings, machine shops, elevators, etc. We include the ferries connecting Camden, but not the floating cars and equipment. They are all assessed just as my property would be or that of any other individual. Take the Pennsylvania depot over there. It is very hard to say what that particular piece of property would bring

⁹⁶ Lehigh Valley R. R. Co. vs. Com., 145 U. S., 200.

⁹⁷ Com. vs. W. S. Express Co., 157 Pa., 579.

⁹⁸ Com. vs. Del. & Hud. C. Co., 21 W. N., 406.

⁹⁹ Acts of the General Assembly of Pennsylvania under which revenue is collected, with opinions and decisions of the courts, 1904.

¹⁰⁰ Ont. Com. Interviews.

if it were sold in the market; there is a very great disparity in prices. We make what we think is a fair guess at the value, and if they are not satisfied they will appeal. If we believe we are too high, on the reconsideration we make a readjustment. The Pennsylvania station is assessed pretty close to two and a half millions, including everything attached to it."¹⁰¹

The Pennsylvania system for the taxation of corporations and particularly of railroads and other transportation corporations, has met with considerable criticism from different points of view, since 1891, when the Boyer law left the taxation of railroads practically where it is to-day. Attempts have been made from time to time to amend various features of the system. Thus, in 1893, the Niles Tax Bill, supported chiefly by the agricultural interests, proposed to greatly increase the taxation of railroads for state purposes while making other changes in the interests of municipalities. The chief objects of the bill were:

"First, to provide a revenue for local (that is, for county, township, borough and city) purposes by A, taxing all real estate and all personal property except a few small classes which were exempted directly or indirectly; B, diverting from the State Treasury to the several county treasuries all the revenue from the taxation of bank stock, moneys and credits, writs, deeds, etc., and all the revenue from liquor licenses, and the fees of county officers, etc.

"Second.—To repeal (a) all taxes on sales of merchandise, except liquor; (b) all taxes on county and municipal loans.

"Third.—To make up for the revenue diverted from state to local purposes by largely increased taxes on transportation and transmission companies, that is, all railroad, canal, bridge, turnpike, slack water navigation, pipe-line, parlour, sleeping car, express and all similar companies, and all telegraph and telephone companies."¹⁰²

This measure was naturally opposed by the railroad and commercial interests, who claimed that the railroads, in particular, whose taxes had just been greatly increased under the Act of 1891, would suffer heavily from the proposed increase of taxation under the Niles Bill. "The action of the Boyer Bill, which has just come into effect, has greatly increased the taxes on the capital stock of transportation and transmission companies. The rate was increased from three mills to five mills, or sixty-six and two-thirds per cent., and the ruling of the Auditor-General, as to valuation, has still further increased this rate, so that the taxes of these corporations have probably been quite doubled under the Boyer Bill. Notwithstanding this great advance, the Niles Bill proposes to add another and entirely new tax of two mills on the total value, not on the value of the capital stock, but on the total valuation of all these companies. It is difficult to tell what the effect of this provision will be, but, beyond doubt, it will amount to double the present tax on capital stock, which has just been nearly doubled by the action of the Boyer Bill."¹⁰³

In an interview with Mr. C. Stuart Patterson, a prominent banker of Philadelphia, the Ontario Commission learned something of the movement behind the Niles Bill and of the work of the Pennsylvania Tax Conference, of which he was a prominent member. Referring to the conference, he said: "We were not an official commission appointed by the Government, but we were a voluntary commission, which came about in this way. The

¹⁰¹ Ont. Com. Interviews.

¹⁰² The Niles Tax Bill, An Analysis of the Provisions, etc., Philadelphia Board of Trade, 1893, p. 1.

¹⁰³ *Ibid.* p. 4.

Granger movement had extended into Pennsylvania, and they introduced, about twelve years ago, a bill into the Legislature which threatened destruction to railroad interests. The system of taxation which they proposed would have amounted to confiscation. We defeated them in the Legislature, but we saw that this movement was going to persist, and that there would be continuous trouble unless it were dealt with. I suggested a voluntary commission consisting of five representatives of railroads, five representatives of commerce, five representatives of manufacturers, five representatives of the farmers, and five representatives of labour. Well, we selected the railroad representatives, of whom I was one, and we got very good men to serve on commerce and manufactures. The Granger organization put their best foot foremost and selected men who made a very favorable impression upon us at the first meeting, in this respect, that, while they were wild in their theories, yet they were sincere men, and I came to the conclusion that we could convince them that they were wrong. So we organized at Harrisburg, then I suggested that they should come down here and sit around my table. We discussed the situation with them carefully. The conference finally appointed a sub-committee, consisting of the chief Granger, a Mr. Rhode, Mr. Joseph D. Weekes, on behalf of the manufacturers, and myself, and that sub-committee was instructed to draw a bill. We did so and succeeded in getting a unanimous report from the commission in favour of it. We introduced the Bill into the Legislature, and I argued it before the Legislative Committee. We got it through the Lower House, and were beaten in the Upper House by one vote, so the bill never became law. But the discussion around the table had such a good effect that it practically broke up the Granger movement. I have now told you frankly all there is about it; it was simply an appeal to reason, and no other influence was brought to bear on those men, and we succeeded in bringing them all over. The general effect upon the railroads, too, has been good. I still believe that our plan as outlined in that bill was a perfectly fair system of taxation."¹⁰⁴

Mr. Weekes, who was chairman of the tax conference, in speaking before a committee of the Pennsylvania Legislature on the method which they employed with reference to the valuation of railroads, said: "We are next taking the railroads of the state, that is, of all those located in whole or in part in the state, ascertaining what the total mileage of the railroads is, how much of it is in the State of Pennsylvania, how much outside, what their total issue of stock is, what the market value of that stock is, what the several issues and the total amount of their bonds are, what the market value of these bonds is, and what the taxation of the railroad. This will give us, when we are through, a basis for the valuation of the railroads, and the taxes that they pay. I ought to say, right here, one thing in regard to the quotation that was made from our report by Mr. Price as to the actual value of the railroad property of the State of Pennsylvania. This report, which was subject to revision, shows that the actual valuation, taking the market value of the capital stock as the value of the capital stock, and the par value of the bonds as the value of the bonded indebtedness, is about \$800,000,000."¹⁰⁵

As the tax conference had already estimated the total valuation of the property of the state to be \$9,692,000,000, this would give the railroad property of the state as one-twelfth of the total property.

¹⁰⁴ Ont. Com. Interviews.

¹⁰⁵ The Niles Tax Bill and Analysis, p. 9.

So far as the Revenue Bill proposed by the Tax Conference affected the railroads and other corporations of a like nature, the chief features were the abolition of the gross earnings tax and the inclusion of all bonds or funded debt under the capital stock tax, which was to be lowered from five to four mills on the dollar. As stated in an analysis of the Act made at the time by Mr. Patterson, "This Bill proposes to tax the corporations upon their property, determining the value of the property by adding to the market value of the share capital the market value of the funded debt capital, when that funded debt is worth in the market less than par, or the par value thereof, when the funded debt is worth in the market par, or more than par, and deducting from the aggregate amount of the shares and funded debt:

"(a) The value of so much of the real and personal property situate within this commonwealth and owned by such company, as should then be, under the laws and constitution of the United States, exempt from taxation.

"(b) The assessed taxable value of such real property situate within this commonwealth as shall then be owned by such company and shall then be taxable for county or local purposes.

"(c) The value of so much of the shares or funded debt of other companies organized under the laws of this commonwealth and taxable under this Act as shall then be owned by such company.

"(d) The value of such real property and such tangible, personal property situate outside of this commonwealth as shall then be owned by such company.

"It may reasonably be claimed that this system of taxation will tax corporations equally, and that the inclusion of the whole bonded debt in the basis for taxation will more than compensate the State for abandoning the tax on gross earnings, and for reducing the tax on share capital from five to four mills, and for adding the additional deduction of the assessed value of property locally taxed."¹⁰⁶

As Professor Bullock pointed out in discussing the Massachusetts system of taxation, the taxing of bonds in Pennsylvania presented a very anomalous situation. It was one of the chief objects of this Bill to remedy that anomaly. In his speech before the Legislature Mr. Patterson, on behalf of the Tax Conference, dealt with this question as follows: "One practical result of the exemption of foreign-held bonds is that the State derives no revenue from property which it protects, often at great cost. Another practical result of the exemption of foreign-held bonds, taken in connection with the fact that the funded debt capital of a railroad is often, to such an extent, its only real capital, that its share capital is worthless, is that there is great inequality in the burden of taxation borne by different railroads. This is clearly put in the report on the valuation and taxation of railroads, which my friend, Mr. Weekes, presented to the Tax Conference, and from which I quote:

"This investigation has shown that there is a great inequality of taxation. This will be evident from the examples given below, which have been selected at random, except that we have not taken any of the larger lines lest the fact regarding any particular road shall become public..

"In this table is given the total bonded indebtedness, the amount of the same held in the State and consequently taxable, the appraised value

¹⁰³ An Analysis of the Revenue Bill, Session of 1895, by C. Stuart Patterson, Esq., pp. 14-16

of the entire capital stock and the percentage of the mileage of the railroad in Pennsylvania. As a rule we have selected roads entirely within the State:

Total Bond Issue.	Amount held in Pennsylvania.	Appraised Value of Stock.
\$ 450,000	\$ 116,000	\$ 450,000
352,000	63,000	1,400,000
72,800	2,700	383
230,000	.....	384
240,000	8,000	48,000
320,000	.....	121,100
5,250,000	1,200,000	3,388,550
890,000	.....	1,400,000
990,000	80,000	1,278,300
3,400,000	6,000	2,000,000
2,900,000	.....	127,000
.....	.....	800,000
.....	.....	3,546,678
179,000	179,000	144,375
2,280,000	2,100,000	2,900,000
495,000	456,000	1,850,000
500,000	410,000	650,000
200,000	200,000	80,000
1,800,000	1,800,000	600,000
800,000	800,000	800,000
270,000	260,000	2,370,466
300,000	300,000	.....
275,000	.....	.....
.....	.....	642,000

"Of these railroads, all but one is situated wholly within the State of Pennsylvania. One-half of the eleventh road in the list is beyond the State boundaries.

"A moment's inspection of the above table, and a great many more examples might be given, will show that it is impossible, that the system of taxing railroads in Pennsylvania could act equitably as between these roads. Take the fourth example: This is a road with \$230,000 of bonds not one of which is held in the State, and capital stock of the appraised value of \$384. The state taxes on this road, outside of the tax on gross earnings, were in 1893 five mills on \$384 or \$1.92. The eighteenth road does not differ much in its character from the fourth, and is worth about the same. This road has \$200,000 of bonds, all held in the State, and \$80,000 of capital stock. Its state taxes, outside of tax on gross earnings, were \$1,200. The last road but one paid no state taxes on capital stock or bonds, as all its bonds were held by non-residents and its stock was worthless. The eleventh road with \$2,900,000 of bonds, 50 per cent. of whose mileage is in the state, would pay nothing on bonds and the capital stock tax on but \$62,350. This is certainly not equitable taxation. At the same time, however, it should be borne in mind, though there are these inequalities, that on the average the taxes paid on real estate by all railroads are fully equal to the average taxes paid on real estate by all other holders and that an increase in rates under the present system will not cure the evil."

"The last few words put the point; no increase in the mileage rate under the present law can correct its injustice and inequality, but a new and better system must be adopted."¹⁰⁷

In considering the tax on gross receipts as a possible improvement on the existing system in Pennsylvania, he says: "The tax on gross receipts would be the best form of railroad taxation, were it not for the fact that receipts from interstate traffic cannot be taxed."¹⁰⁸

This is the standard objection which in the United States is usually brought forward by those who are opposed to the extension of the earnings tax, gross or net. There is very little objection to the tax itself, which is everywhere admitted to have less difficulty and inequality connected with it than any other form of railroad taxation. The limitations, however, which the Federal Government places upon the right of the individual States to deal with interstate traffic, render the practical operation of the tax difficult from a constitutional point of view. Referring, then, to the best possible alternative to the gross earnings tax, after criticizing the existing system in Pennsylvania, Mr. Patterson continues, "Such being the present system of railroad taxation under the statutes of the State and the decisions of the courts, and there being injustice and inequality inseparably incident to the system, the Tax Conference addressed itself to the task of devising a system which should, in so far as legislation can, remedy the defects of the present system, and which, while doing justice as between the several railroad corporations, should provide for the State a larger revenue than it receives from the railroads under the existing laws.

"Mr. Weekes, in that able report on 'Taxation and Valuation of Railroads in Pennsylvania' from which I have already made one quotation, said:

"It is a well known fact that the par value of the stock and bonds of a railroad does not, and in many cases never did, represent its actual value. The many ways in which stocks and bonds are issued for less than their face value are too well known to require even a statement of them. Stocks are often issued free to bond-holders, dollar for dollar, and all the cash actually put into the construction of a road is what its bonds have sold for. Frequently the chance of profit in building a road is so small that stocks and bonds are both sold at a large reduction to cover this risk. And after the road is built, it may have been so overbonded or over-capitalized, or for a score of reasons, such as bad location, heavy grades, long tunnels, poor work, its earning capacity may be such that it will not more than pay running expenses, much less dividends and interest, and, therefore, its value will be much less than cost.

"Oftentimes a piece of road that costs the highest rate per mile, just because of the cost which is represented by tunnels, deep cuts, heavy fills, expensive bridges, etc., will be the least profitable, and, consequently, the least valuable. Railroads that actually cost \$100,000 a mile are not worth in many instances as much as those costing \$30,000, and would not sell for as much. Comparatively few railroads are now owned by the original stock. The road has been sold by the bond-holders, the original stock wiped out and new stock representing the bonds, or part of them, substituted.

¹⁰⁷ Speech of C. Stuart Patterson, Esq., on the Taxation of Railroads, before Committee of the House of Representatives, 1895, pp. 7, 8, 9.

¹⁰⁸ *Ibid.*, p. 9.

"For these and other reasons it will readily appear to anyone who has given railroad construction, or railroad finance, a moment's thought, as quite evident that the par value of the stocks and bonds of a railroad does not in many cases represent its actual value. What does represent this value?

"The principle usually adopted in the tax laws of this State, in arriving at valuation for taxation, is the selling price. We do not claim that assessors always value property accurately or fairly, but there is no question that if an assessor does his duty under the law, and in accordance with his oath, he will value all property he assesses at its actual value; that is, at what it would bring at a bona fide sale duly advertised.

"When the Tax Conference came to deal with this subject, they concluded that if, in the case of any railroad, you add to the actual value of the share capital, the market value of the funded debt capital, when that funded debt is worth in the market less than par, or the par value thereof, when that funded debt is worth in the market par, or more than par, and when you take from the aggregate of the share capital, the sum of the deductions which are necessary to avoid double taxation, you will obtain a fair valuation of the whole corporate property, for the purposes of taxation." ¹⁰⁹

Mr. Weekes, in a pamphlet discussing "The Effect of the Proposed Revenue Bill on the State Revenues," pointed out that the investigations of the Tax Conference showed that in 1895 the stocks of the railroads amounted to only 41 per cent. of the combined values of their stocks and bonds. Yet, under the existing law, where only the 41 per cent. was reached by the capital stock tax, the value of the railroad stock constituted fully one-half of the total value of the corporations taxed under that section of the law. He also pointed out that "under the action of the three taxes now levied on these companies a large part of their value escapes taxation. If the capital stock of a transportation corporation is valueless, and the business is largely an interstate commerce one, while the bonds are all or a large part held out of the State, the company will practically escape taxation." ¹¹⁰

As we have seen, the bill under discussion was defeated by a small majority and the law remains to-day with the defects referred to in the above criticisms. It was considered by the majority in 1895 that the difficulties of the proposed taxes on bonds were even greater than those connected with the existing law.

The following table exhibits the various sources of the State revenue. From this it may be observed what proportion of the revenue is derived from the different taxes levied.

A. From Financial Corporations and Associations:

1. National Banks	\$659,041
2. State Banks	93,738
3. Incorporated savings institutions without capital stock ..	48,767
4. Trust companies	830,069
5. Building and loan associations	13,931
6. Interest on State deposits	271,363

¹⁰⁹ Ibid., pp. 13-15.

¹¹⁰ Effect of the Proposed Revenue Bill by J. D. Weekes, 1895, p. 11.

B. From Corporations and Associations (including railroads and other transportation companies):

7. Foreign insurance companies	\$1,001,154
8. Tax on capital stock	6,156,357
9. Tax on loans	1,416,881
10. Tax on gross receipts	1,095,351
11. Tax on gross premiums	61,966
12. Bonus on charters	1,138,221

C. From or through Counties as follows:

13. Tax on personal property	3,176,403
14. Tax on writs, wills, deeds, etc.	181,732
15. Tax on collateral inheritance	1,300,834
16. Tax on loans (county)	163,707
17. Tax on loans (municipal)	108,619
18. Pamphlet laws	363
19. Notary Public commissions	36,200
20. Receipts from licenses	2,639,248

D. From other sources:

21. Tax on bankers' and brokers' gross receipts	58,383
22. Tax on sales of fertilizers	19,015
23. Fines	42,580
24. Refunded cash	5,248
25. Fees of State officers	251,738
26. Escheats	5,048
27. Tax on notarial gross receipts	4,069
28. Alleghany Valley Railroad	132,500
29. Annuities for right of way	10,000
30. Penalties	45
31. Oleomargarine licenses	38,294
32. Renovated butter licenses	225
33. Fishing licenses	2,818
34. Hunting licenses	426
35. Lands	5,792
36. Accrued interest	1,537
37. U. S. Government money refunded ..	45,239
38. Conscience money	394
39. Miscellaneous	12,922

Total receipts	\$21,030,232
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(Report of the Auditor-General of the Finances of the Commonwealth of Pennsylvania, for year 1903, pp. 1-3.)

The next table gives a number of the leading and typical railroads of the State, with the amount of taxes paid by each, under the different assessments to which they are subject. It will be observed that, in accordance with the law, where the stock of a company is owned by another company, the subordinate company is exempt from taxation on its capital stock, the taxes being charged to the company owning its stock. Again, as we have seen, where the loans or bonds of a company are held outside the State of Pennsylvania, they cannot be taxed, and, lastly, where a company is operated by another company the tax on gross receipts will be paid by the operating company. This will explain the blanks in the following table under different headings.

TAXES RECEIVED FROM STEAM RAILROADS, 1903.

Name of Corporation.	Tax on Capital Stock.	Tax on Loans.	Tax on Gross Receipts.
Alleghany Valley.....	\$ 50,000	\$ 14,670	.....
Alleghany & Western Railway.....	20,042	1,793	.....
Baltimore & Philadelphia.....	2,418	.....	\$ 1,705
Bangore & Portland.....	3,375	.....	822
Buffalo, Rochester & Pittsburg.....	24,750	1,025	9,276
Buffalo & Susquehanna.....	18,104	1,187	1,358
Central Railroad of New Jersey.....	.....	.....	10,788
Cleveland & Pittsburg.....	7,983	2,115	566
Cumberland Valley.....	14,757	826	3,632
Delaware, Lackawanna & Western.....	125,000	555	3,247
East Pennsylvania.....	12,113	3,381	.....
Almira & Williamsport.....	5,757	4,153	.....
Erie & Pittsburg.....	11,875	2,759	5,293
Erie Railway.....	5,400	.....	7,348
Fall Brook.....	17,875	.....	.....
Gettysburg & Harrisburg.....	790	2,458	921
Huntingdon & Broad Top Mountain Railroad & Coal..	16,352	4,942	2,414
Lake Shore & Michigan Southern.....	31,501	2,158	122
Lehigh Valley.....	102,837	144,766	21,735
Maryland & Pennsylvania Railroad.....	1,250	76	830
Mine Hill & Schuylkill Haven.....	27,261	.....	.....
Monongahela Connecting.....	6,224	2,477	2,204
New York Central & Hudson River.....	.....	.....	7,250
New York, Chicago & St. Louis.....	10,742	638	223
North Pennsylvania.....	51,533	51,837	.....
Northern Central.....	86,173	12,662	16,683
Pennsylvania Company.....	33,414	23,147	.....
Pennsylvania Railroad & Leased Lines.....	926,504	122,038	293,606
Pennsylvania & New York Canal & Railroad.....	10,000	28,458	.....
Philadelphia, Baltimore & Washington.....	.....	8,789	12,644
Philadelphia & Erie.....	.....	35,057	19,252
Philadelphia & Reading Railway.....	40,000	.....	125,499
Philadelphia & Reading Terminal.....	5,000	28,391	.....
Pittsburg, Cincinnati, Chicago & St. Louis.....	9,560	28,665	8,750
Pittsburg & Connellsville.....	18,351	49	20,778
Pittsburg, Fort Wayne & Chicago Railway.....	41,232	1,544	12,195
Pittsburg & Lake Erie.....	45,125	6,901	12,897
Pittsburg, McKeesport & Youghiogeny.....	25,341	2,230	17,140
Pittsburg & Western.....	8,310	1,213	8,397
Reading Company.....	585,295	135,913	.....
Shamokin, Sunbury & Lewisburg.....	10,000	5,241	.....
Union Railroad.....	19,125	228	7,052
Wheeling, Pittsburg & Baltimore.....	2,746	.....	1,804
Total of all lines.....	\$2,951,296	\$823,359	\$710,320

(Report of Auditor General for 1903, pp. 204-217).

In addition to these amounts the Bonus Tax amounted to a total of \$321,444, making the total receipts from steam railroads \$4,806,421.

The following table gives the amount derived from the different classes of corporations contributing to the State revenue:

TAXES PAID BY THE SEVERAL CLASSES OF CORPORATIONS FOR THE YEAR 1903.

National Banks	\$659,041
State Banks	93,738
Savings Institutions	48,767
Trust Companies	830,069
Interest on Deposits, Sinking Fund	196,555
Interest on Deposits, Sinking Fund	74,808
Building and Loan Associations	13,931
Brewing Companies	176,347
Brick, Clay, Slate and Stone	41,612
Bridge and Turnpike	40,280
Coal, Coke and Mining	1,113,570
Ferry Companies	825
Gas Companies	355,388
Insurance, Domestic	138,033
Insurance, Foreign	1,001,154
Land and Improvement	136,446
Light, Heat and Power	242,981
Manufacturing	793,553
Market	11,352
Oil and Mining	49,688
Railroad, Steam	4,806,421
Railways, Passenger	1,035,210
Transportation, Miscellaneous	341,632
Telegraph and Telephone	212,189
Water Companies	168,998
Miscellaneous Companies	207,825
Total	\$12,788,427

(Report of Auditor-General of Pennsylvania, for 1903, pp. 297-8.)

Taking the totals it will be found that the railroads and other transportation corporations contribute one-half of the taxes on all corporations, and between a third and a fourth of the total revenue of the State.

NEW JERSEY.

Taking the totals it will be found that the railroads and other transportation accomplished the separation of state and local systems of taxation. There is no direct state tax upon the people for state purposes. Almost the only link between the state revenue, on the one hand, and the municipal revenues, on the other, is connected with the tax on railroads and canals, which is a state tax, but part of which is distributed to the municipalities. The State also collects a public school rate but pays it all over to the local districts. The canal system of New Jersey being one of its important means of transportation, and being in the hands of private corporations, several of them railroad corporations, it is treated in the same manner as railroads in the matter of taxation.

The following general outline of the New Jersey system of railroad taxation, which has been in operation since 1884, was given to the Ontario Commission in an interview by Mr. Irvine E. Maguire, Secretary of the State Board of Assessors:

"All the property of railroad corporations in this State, for purposes of taxation, is divided into two classes. First, the property used for railroad purposes or distinctly held for such use, and, secondly, the property owned by railroad corporations but not so used, which latter class of property is subject to taxation by the local tax authorities in the same manner, same value, same rates, as the property of individuals. The latter class that I speak of

consists of such property as dwelling houses acquired by companies for the use of their employees, or where they have bought large tracts of land, being forced to buy it in order to get a right of way through farms on it. Now, generally speaking, that is the general classification of property subject to local taxation only. All the property used for railroad purposes or specifically held for such use, i.e. not used for any other purpose, is subject to taxation by this board only. That property is divided, under the law, into certain classifications or sub-divisions. First the main stem of the road, which shall not exceed 100 ft. in width. The Act says that the main stem shall not exceed 100 feet but does not say it shall necessarily be in spots 100 ft. In general the main stem might be more than 100 ft. Where there is a four track road running for miles it might be 110 or 120 ft. in width. In that case all the extra width is charged in another class. Only the 100 ft. is in the first class.

"The second sub-division, known by us as 'second-class property'; is property used for railroad purposes other than the main stem, and I will explain there; to a person who is not conversant with the law it would be assumed that the second-class property was running altogether outside the main stem. That is true as far as the land is concerned, but may not be true as regards the structures. The Act defines what the main stem shall be, and says it shall consist of the roadbed with the ties and rails thereon, and the buildings used for railroad purposes. Therefore, if the railroad company should happen to have inside the limit a turntable, a freight house, a signal station, a water tank, that will all be assessed as second-class property, or property used for railroad purposes other than the main stem, even though it is on the right of way.

"The third class of property is the tangible personal property, consisting of rolling stock, floating equipment such as ferry boats, tugs, etc., tools, office furniture, materials in store or yards. That is tangible, personal property.

"And the fourth class is the franchise.

"Now I will go back to the main stem. The main stem of a railroad is valued by us as a unit, as so much wealth within the State between two given points, the termini of that road. In order to arrive at the value of that main stem, first we have the return of the railroad companies, which gives us the quantities and their estimate of the values of the component parts of the main stem. Then we have the privilege of calling on the local tax authorities of the municipalities through which this road runs, for their estimate and then we have our own engineer corps, under the charge of a chief, who examines all these new properties. The chief reports to the board his estimate of these properties and the board then use their own individual observations of the property. In valuing the land, we are governed to a great degree by the value of adjacent land through which the road runs. Of course it goes without saying that a right of way through an agricultural part would not be as valuable as through a city. But they are not altogether governed by that, and if they find that the average rate of taxation in a community is about 80 per cent. of the value, they bring it up to what we call the true value. The excavations on a road are calculated, the engineer reports to us the cuts and fills. He examines the bridges as to their material, and as to cost of reproduction; he measures up the rails and reports to the board the weight of rails, whether steel or iron and the weight per yard. He values the station buildings and reports to the board whether brick or stone or frame, and the size, and so on. After all those items are got together and produce a certain sum, the board say: "We will fix the value of that property as so much money—not so much per mile. Suppose all these fact-

ors should foot up half a million,—or it might be \$556,472; the board will probably say, for purposes of taxation we will assess the man's property at \$500,000. Upon that value a tax rate of one-half of one per cent. is levied for State use only.

“Now as to second-class property, or property used for railroad purposes other than main stem. The most of that lies in the terminal yards, and consists of very many acres of land, very many miles of side track, tanks, freight houses and all that sort of thing. They are all measured up and valued and reported on by our engineer, and a value is placed on them. That class of property is itemized, as you will find in the annual report, and it is subject to two rates of taxation, both of which are imposed by this board—the one is at the local tax rate of the municipality wherein these specific properties are located, at a rate not exceeding one per cent. I call your attention to the fact that in the printed report you will find the local tax rate given at say 1.46 and you will find that the calculation of the tax will not be at the rate of 1.46 but at the rate of one per cent. This is for the benefit of the locality and is collected by the State and paid over to these localities in the proportion which we have applied to it. Then, by the law passed subsequently, the State pays to these municipalities another half of one per cent which we had formerly retained as a State share of that class, so that under the two laws the municipalities get $1\frac{1}{2}$ per cent. of that second-class of property.

“Next, there is the tangible personal property, which I explained, consists of rolling stock, etc. We are, as to the estimate on those things, a good deal at the mercy of the railroad companies, because it would be practically impossible for us to estimate all the cars and locomotives that pass through our State. The companies are required to make sworn returns to us, and we have to give full faith and credit as to the items. We assess that property at an average price which we fix, and which bears no relation to the companies' ideas of value. The ferry boats and tug boats we are better able to identify, because they are known by name, and we tax them *per se* as items. Where there is a ferry line running between this State and, say, the State of New York, we claim one-half of the value irrespective of where they are owned and operated. This means one-half of the time in New Jersey water—some of the tugs are taxed for 7-8 of the time. This class is taxed at one-half of one per cent.

“Now this brings us to the fourth and last class, which is known as the franchise, and I will say to you that at the inception of this board this was one of the most difficult problems we had to tackle. In estimating the value of the franchise, the board adopted what is known as the Illinois rule with certain modifications, applicable to peculiar conditions existing with us that did not exist with them. They first ascertain the market value of the stock and debt of a railroad company, or as near as they can. If there is no quotable value, then they have to estimate. There are a number of our leased roads whose stock is so closely held that it never gets on the market. Having ascertained the market value of the stock and debt, and having previously ascertained the value for taxable purposes of all the real estate and personal property, one is deducted from the other, and the difference is called “franchise,” on the theory that if the public is willing to pay five millions for a railroad as represented by its stock and bonds, and all we are able to find is four millions of property, there is a representation there of something which is nothing more or less than the privilege to do business, and in a case of that kind one million would be the value of the franchise. That is the Illinois rule but our board goes a little further. They say some of these stocks are subject to fictitious values, and in order to guard against the possibility of errors of judgment we make an allowance of 40 per cent. and fix a

rule that 60 per cent will be taken as the proper allowance for the franchise. For instance, some of our roads here are under a leasehold, a guaranteed lease for 999 years at 10 per cent. with a large corporation at the back of it guaranteeing that lease. Now that enhances the value of that stock; whether the company makes 10 per cent or not. In order to make the thing uniform they allow 40 per cent. and call the 60 per cent. the value of the franchise. That tax is for State purposes only, at the rate of one-half of one per cent.

"So then, there are four classes of property, of which the main stem, the tangible personal and the franchise each pay one-half of one per cent. for State uses, and the second-class property pays $1\frac{1}{2}$ per cent. collected by the State and paid over to the municipalities. Thus the municipalities get their return only on the second-class property.

"Now the result for the year 1903 showed an aggregate valuation. (See page 754, fifth column) of \$227,195,115.00, on which there was a straight tax for State use of \$1,135,975.60 and for the use of tax districts of \$428,334.01 or a total tax of \$1,564,309.61 after which the State out of its apparent tax of \$1,135,975.60 paid over to the municipalities the one-half of one per cent. on second-class property, amounting to \$214,180, so that the taxing districts, as a matter of fact, received \$642,514 and the State received the \$1,135,975 less \$214,180, amounting to \$921,795. This is the net tax which the State receives from the railroads."¹¹¹

Such is Mr. Maguire's statement of the essential features of the New Jersey system. Some further points, however, bearing on the general question of railroad taxation were brought out. The earning power of the railroads in New Jersey is considered to be reflected in the selling value of their stocks. But that this is not always the case, where other factors intervene to inflate or depress the normal rates of certain stocks, the New Jersey Board recognises. Mr. Maguire confesses that in such cases "Our board has to exercise a sort of judicial function." In the end this has the usual effect of preventing either the railroads or the public from knowing just how the assessment of a railroad is made up. Thus Mr. Maguire explains: "In our assessment of railways we do not tell the railroad company what the franchise is. The first item of our bill covers the main stem and franchise. As a matter of fact we put the two together. Neither do we in our bill to railroad companies give specifically the values of the different items of their tangible personal property. We have that as a matter of record in this office—so many locomotives at an average of so much, so many passenger cars, so many ferry-boats, etc., etc.—but we merely say to them "we value your tangible personal property at so much." There are two reasons for this: First, we did not want to come into conflict with the Interstate Commerce Law. Take a train of cars starting from Jersey City and running through to Philadelphia or farther. The companies claim that that train of cars, even though it may stop at Trenton and let off passengers, is a train engaged entirely in Interstate Commerce business, and if it is a train belonging to a foreign corporation it is taxable only at the home of that corporation. We don't argue about it. We simply get a percentage out of that train, and don't tell them how. Then they have to show that we are wrong. The other reason is this: that if we said to a railroad company over our signatures 'Here is the ferry-boat "St. Louis," worth in our judgment \$180,000; here is the ferry-boat "something else" that we think is worth \$200,000; where we undervalued they would never raise a question, where we overvalued they would make an attack on that specific item and convince us that we were wrong. So we simply don't give them the specific values."¹¹²

¹¹¹ Ont. Com. Interviews.

¹¹² Ont. Com. Interviews.

Mr. Maguire adds other concrete illustrations to show that it is often impossible to locate any franchise value even when the property is known to be worth more than its physical value. In such cases the whole valuation is put in a lump sum under main stem and franchise. The difficulties met with and the manner of overcoming them by adopting a "nominal franchise" shows how impossible it is to operate the system, as a system. Speaking of the difficulty of getting at the franchise value in the case of smaller roads under the control of a larger one, Mr. Maguire says: "Most of these little roads have a nominal franchise. In 1884 the first year of this board, they were met with this condition in the case of the Erie Combine where there was a minus quantity. Fortunately there was one lawyer, a judge, on the board, and a good one. But they solemnly resolved, while they were admirers of the Illinois rule, that where they could not work the Illinois rule satisfactorily they would take a certain capitalization of the gross earnings and call that the value. The judge on the board said they could not have two rules, they could not say that the franchise of this road was based on the Illinois rule and that of another on gross earnings, because the court would not stand for it. However, they thought they would try it, thinking that otherwise they would not be able to get any franchise. The judge was consistent in the matter, and when it came to the time for making the assessment he declined to sign the particular rolls, on which the franchises were based on gross receipts, and, sure enough, the court took a club and knocked the legs from under it. Then they took up and criticized the Illinois rule. The Chief Justice of the State sat on the case and said he could not see any objection at all to the Illinois rule; but as to assessment on gross earnings he could not permit the operation of two rules, and where the board could not arrive at a franchise under the Illinois rule they should make the franchise a nominal one. Then the question came up—what is a nominal franchise? The board might adopt a rule that in all cases a nominal franchise should be \$20,000 and of course would have left themselves open to very severe criticism. What we did was to fix a nominal value of \$1,000 on which the tax would be \$5."¹¹³

As usual the railroads of New Jersey have the right of appeal from the assessments of the board. "The railways have the right of appeal first to this board for a review and by argument of counsel, testimony of experts, etc., attempt to convince the board that they have erred, and, failing to get such relief as they think they are entitled to, they have the right to carry the case before the Supreme Court of the State of New Jersey, or to the Court of Certiorari, the Court of Errors, etc. The appeal could be carried through certain courts, finally to the Supreme Court of the United States on questions of law, but in the case of a question of the board's judgment, only to the Supreme Court of New Jersey."¹¹⁴

As to how the people of New Jersey appear to be satisfied with their system Mr. Maguire made the following frank statement: "I cannot say everybody is satisfied. The State is very well satisfied, because with the heavy taxes we get from this class of property—this State being called the Home of Trusts—we are getting along very comfortably. As to the Public there is now a good deal of agitation—for instance there is considerable agitation in Hudson County, the county bordering on Hudson River. They are not attacking the system, but they are attacking the rate of taxation. They are raising the very popular cry of 'equal taxation,' and here the incongruity of the thing comes in. They do not mean equal taxation at all but they do mean a larger corporate tax. They want the railroads to

¹¹³ Ont. Com. Interviews.¹¹⁴ Ont. Com. Interviews.

pay more, and that is likely to be a great war cry in the ensuing election. It is not the system they complain of, but they say it is manifestly unfair for people in Jersey City to pay \$2.80 per hundred when the railroad company on one class of property pays only 50 cents and on the very highest merely \$1.50 per hundred of value. The counter argument by the railroad companies is this: that if the local assessing board of Jersey City would honestly assess every dollar's worth of property at its full value upon real and personal property, and then make up the tax budget, it would be found that the railroads were paying a higher rate."¹¹⁵

As to the railroads they are not altogether satisfied but do not agitate for a change, as they are afraid of faring worse.

The State Board of Assessors is a body whose sole duty it is to prescribe and obtain returns from the various corporations, check these, make valuations, and certify their assessment to the State Auditor, who collects the taxes. This board has nothing to do with local assessments or their equalization. That duty is discharged by the State Board of Taxation.

As to other transportation corporations Mr. Maguire has this to say: "All public corporations using public streets and highways are subject to taxation by the various municipalities where their property is situated, the same as property of other people and at the same rate. They are also subject to a franchise tax on public utilities, by this board, at the rate of 2 per cent. on their gross receipts, for the year preceding. The revenue is apportioned by this board among the municipalities through which the lines of these companies respectively run, in the ratio of assessed value of the property occupying the streets and highways, and the franchise tax is predicated on the length of line on the streets and highways. That is, if a certain company had one-quarter of its line on public streets and three-quarters on private right of way, the basis would be on one-quarter of its receipts."

Telephone, telegraph, express and parlor and sleeping-car companies are all taxed on gross receipts from business done within the State, the rate being 2 per cent.

The following table gives the mileage, the valuation and State and local taxes paid by the different railroad systems of New Jersey. These few systems comprise 117 railroads making separate returns, with a total mileage of 2,494, of which 173 miles are represented by canals owned by these corporations.

Name of System.	Miles in New Jersey.	Aggregate Assessed Valuation.	T A X	
			For State Uses.	For Local Districts.
Pennsylvania Railroad.....	811	\$66,469,488	\$332,347	\$109,409
Central Railroad of New Jersey.....	437	48,933,597	244,667	84,000
Philadelphia & Reading.....	229	9,717,523	48,587	6,797
Erie Railroad.....	150	19,150,348	95,751	60,571
Delaware, Lackawanna & Western.....	207	33,910,006	194,550	76,296
New York, Susquehanna & Western.....	126	7,313,770	36,568	8,038
Lehigh Valley Railroad.....	227	22,562,818	112,814	44,425
Railroads not Classified.....	305	14,137,570	70,687	38,794
Total.....	2494	\$227,195,115	\$1,135,975	\$428,334

Annual Report of State Board of Assessors for 1903, p. 754.

¹¹⁵ Ont. Com. Interviews.

Of the other transportation companies taxed by the State on their gross receipts, we have the following returns:

	Gross Receipts.	Tax.
Parlor, Palace or Sleeping Car Companies	\$ 107,057	\$ 2,141
Express Companies	61,877	1,237
Street Railway Companies	8,184,706	163,694
Telegraph and Telephone Companies	1,616,840	32,336

But the chief source of New Jersey's State income is derived from a vast number of corporations, operating throughout the United States, which have come to New Jersey to obtain charters of incorporation and which are taxed on their capital stock. There are 9,425 separate companies, with an aggregate capital stock of \$8,641,229,854, on which is levied an annual tax of \$3,147,680. The tax is a graduated one, being one-tenth of one per cent. on capital stock up to three millions. Between three and five millions the rate is one-twentieth of one per cent., and \$50 on every million in excess of five millions.

VERMONT.

The Vermont system of taxation for transportation companies is interesting chiefly from the fact that it gives the railroads and similar corporations the option of being taxed on an ad valorem basis or on gross earnings. In almost all cases the companies have elected to be taxed on their gross earnings.

In November, 1900, the State Commissioner of Taxes was requested to make, during the next two years, an investigation of the system of taxing corporations in Vermont, and to present such recommendations as seemed to him advisable. The commissioner made his report in October, 1902. He deals, in the first place, with the extent to which the real and personal property of the different local units is undervalued. In this we have a striking instance, in an Eastern State, of the competition among municipalities to reduce their valuations with a view to escaping the proportionate burden of state taxes. As already noted, this is a familiar device in the Western States, wherever a strict and thorough going system of equalization is not in force.

"While the law requires a true, full and perfect statement in the inventory of the taxpayer's entire tax of the personal property, and that all real and personal estate should be set in the grand list at its true cash value, it is a well known fact that the grand list in the State does not represent the true cash value of either the real or personal property. It is no doubt entirely safe to assume that the value of property in any town or city heretofore shown is only a part of the true valuation for the purpose of taxation.

"The law does not recognize this condition of affairs, but the listers as a rule are practical men, who will not willingly make the property in their respective towns pay unequal share of the State and County expenses. Feeling as they do, that every other board of listers in the State is of their mind upon this subject, and knowing that there is no method of equalization, is it strange that property is set in the grand list below its true value?"¹¹⁶

The Commissioner, therefore, recommends the establishment of a State Board of Equalization to determine the valuation for State and County taxation, so that each town should bear its just share of the State and County taxes.

¹¹⁶ Special Report relating to Taxation of Corporations and Individuals by the Commissioner of State Taxes, 1902, p. 46.

The system of railroad taxation in the State is thus summarized in the report of the Commissioner:

"The system employed in this State for taxing railroads requires the assessment at a given rate upon the appraised value of the entire property of this class of corporations including the corporate franchise, giving to the company operating the railroad the option of paying in lieu thereof a given per cent. of its gross earnings.

"The Vermont Statutes on this subject are as follows:

"The Commissioner shall appraise railroad property acquired, constructed, or used for railroad business or purposes, including the corporate franchise, at its fair and just value. Such appraisal shall be taken to be the true value of such railroad, its rights, corporate franchise, and property in this State, for the purpose of taxation, and shall be made as soon as possible after returns are received, and not later than the first day of November annually.

"If the line of a railroad extends beyond the limits of this State, its whole valuation, ascertained as aforesaid, shall be divided by the number of miles of its entire main line, and the amount thus obtained shall be taken to be the value of such railroad per mile, which sum, multiplied by the number of miles in this State, shall be taken to be the true value of such railroad, its rights, corporate franchise, and property in this State, for the purpose of taxation.

"A tax of seven-tenths of one per cent. is hereby annually assessed upon the appraisal obtained as provided in the two preceding sections, against each corporation, or person so operating a railroad in this State on the thirtieth day of June preceding such appraisal.....

"A corporation owning or person operating a railroad within this State may, annually, pay to the State in lieu of the tax assessed in this chapter, two and one-half per cent. on its entire gross earnings, if such railroad is situated wholly within this State, if situated partly within and partly without this State; then such two and one-half per cent. on gross earnings shall be upon such proportion of the entire gross earnings of such railroad, as the mileage of trains run in this State bears to the mileage of all trains run on the entire main line of such road for each six months period.

"The corporation or person accepting the provisions of the preceding section shall make returns of the gross earnings of said railroad as provided for making returns in this chapter, and within thirty days thereafter, forward to the State Treasurer the amount of such two and one-half per cent. for the period covered by said returns."¹¹⁷

All but two roads have elected to pay on their gross earnings. These were the Fitchburg Railroad which simply ran across a corner of the State, and the other a narrow gauge branch line of the Fitchburg.

The Tax Commissioner has the following observations to make upon the operation of the system in Vermont: "Compared with the taxes required upon the appraisal, the taxes heretofore paid by railroads upon their gross earnings have been somewhat less in amount. In some instances the tax upon the gross earnings closely approaches the tax upon their appraisal; in others it is much less.

"There can be no question, as between railroad companies, but that the earning power of a road in full operation, is the fairest basis of taxation. For it is the earning capacity which makes one farm worth more than another of equal size.....One element of the earning capacity of any property is its physical condition; another, its location.

¹¹⁷ Ibid. pp. 86-87.

"These are simple and commonplace propositions, applicable alike to farm, manufacturing, commercial, and railroad properties. Like most abstract propositions, their application to small matters is much more satisfactory than to matters involving millions of dollars. The difficulty arises in failing to consider all the important elements which in a small matter would make little or no appreciable difference. It is the application of these simple and commonplace propositions to the great amount of business and property of railroads that makes it difficult to get a just and fair appraisal of their property.

"It is doubtless unnecessary to even suggest that the valuation of railroads (in this State) and which has stood practically unchanged since 1892, is probably not the true valuation of all such roads. It would be impossible to demonstrate from any data at hand, how the appraisal of railroad property in the State compares with property set in the grand list. There is no class of property more difficult to value for the purposes of taxation than that of railroads. Men of prominence in railroad matters, as well as boards of appraisers and courts, differ touching the method of valuing railroad property. Because of such difficulty in establishing the true valuation of railroads the tax based on gross earnings has met with popular favour.

"The appraisal of railroads covers all property, acquired, constructed or used for railroad business or purposes including the corporate franchise; and allows no deductions therefrom, either for debts owing or by exempting certain classes of property.

"If a change is to be made in the system or rate of taxation of steam railroads, I would call attention to the fact that in some of our sister states the tax upon gross earnings is graduated according to the gross earnings per mile, increasing the rate of taxation with the increase of earning above a given amount. In this way all railroads pay a certain fixed rate, while the more prosperous ones pay an additional rate proportioned to the additional earnings."¹¹⁸

Other transportation companies are treated as follows:

Street Railroads: "These roads are subject to the same taxation laws as steam roads. Being built for the most part in highways and streets, the cost of constructing the road bed is considerably less than that of the average steam railroad. The corporate franchise is an important factor in establishing the valuation of street railroads, and should materially enhance their valuation as this class of roads becomes more firmly established. It is quite apparent that the taxes from street railroads will increase in volume as the earning power increases, because upon that, depends to a great extent the valuation for the purposes of taxation. In the past, a part of these companies have paid upon the gross earnings, but a much larger per cent. than of steam roads have paid at the rate of \$7 per one thousand, upon the appraisal.

Express Companies: "Express companies, like insurance companies organized under the laws of other states and countries, have but little tangible or real property in this State, so that the tax paid by these corporations must be in the nature of a franchise tax rather than a property tax. The Vermont statutes upon this subject are as follows:

"A corporation or person, doing express business in this State, shall pay a tax to the State, which is hereby assessed at the rate of four per cent, annually, on the gross receipts of their business done wholly within this State. Such tax shall be paid annually on or before the fifteenth day of September

¹¹⁸ Ibid. pp. 88-91.

and shall be based upon the business for the year ending with the last day of June next preceding."

"In order to keep within constitutional bonds the rate required of this class of corporations should be assessed upon the gross receipts or earnings from business done wholly within the State, our Supreme Court having decided that a law taxing gross receipts derived from Interstate business would be unconstitutional. Owing to the fact that express companies have but little real estate or tangible property in Vermont, a property tax could not be assessed against them, giving them an option to pay a given per cent upon the gross receipts on all business done in Vermont, as in the case of taxing railroad companies.

Sleeping and Palace Cars: "What has heretofore been said touching the taxation of express companies, applies to the tax upon this class of business. The taxable gross receipts are only those received from business done wholly within this State. The Vermont statute imposing a tax thereon is as follows:

"A corporation or person owning or operating sleeping palace or other cars for which extra compensation is charged for riding therein, over any of the railroads in this State, shall make returns to the Commissioner of the entire gross earnings of such cars, received from business done wholly within this State, including all sums received for the use of cars. An annual tax of five per cent is hereby assessed on such gross earnings of such corporation or person."

Steamboat and Transportation Companies: "The laws taxing this class of common carriers are similar to those pertaining to railroads and are as follows:

"A steamboat, car, or transportation company, incorporated under the laws of this State, shall pay an annual tax to this State on its property and corporate franchise. Such company shall make returns to the Commissioner of State Taxes, as required by this chapter, who shall make an appraisal of the value of its property, and in so doing shall take into consideration its business and corporate franchise.

"A tax of seven-tenths of one per cent. is hereby assessed upon such appraisal and shall be paid to the State Treasurer, as provided for the payment of taxes by railroad companies.

"The corporation specified in the second preceding section may annually pay to the State in lieu of such tax, two per cent. on their entire gross earnings; and shall make such election, returns and payment as are required to be made by railroad companies."

Telegraph Companies: "The law touching telegraph companies is as follows:

"A corporation, person or company owning or operating a telegraph line within this State, shall pay an annual tax to the State upon the property or corporate franchise of such corporation or person, which is hereby assessed at the rate of sixty cents per mile of poles and one line of wire, and forty cents per mile for each additional wire owned, maintained or operated within this State. Such corporation or person may, in lieu of the tax assessed, pay three per cent. of the entire gross earnings of business done wholly within the State."

This section should, in the opinion of the commissioner, be amended so as to read as follows:—

“Such corporation or person may in lieu of the tax assessed in the preceding section, pay to the State a sum equal to three per cent. of the entire gross earnings of such corporation or person collected within the State, on account of telegraphic messages or communications sent or received herein.

“A law of this character would not be unconstitutional and would, at least to some extent, remedy the deficiencies in the present law.” The deficiencies referred to were due to the fact that most of the business of the telegraph companies was of an interstate character and could not properly be taxed under the existing law.

Telephone Companies: “In 1894 the present law governing the taxation of corporations and persons doing telephone business was incorporated into the Vermont Statutes and is as follows:

“A corporation or person doing telephone business in this State shall pay a tax to the State, which is hereby assessed at three per cent. annually on the entire gross earnings of business done wholly within this State, including sums received for rental of instruments.”

“Telephone companies like telegraph companies should be assessed a given sum for each line of poles and one wire within this State, and a further sum for each additional wire, graduating the price per mile according to the kind of lines used. An option should be given this class of taxpayers to pay a given per cent. upon the entire gross receipts collected in this State in lieu of the mileage tax, provided such gross receipts equal or exceed a certain sum, for instance five hundred dollars.”

Annual License Tax: “This is a tax required by our statute of every corporation having capital stock or deposit, organized under the laws of this State.....This tax is also required of every corporation organized under the laws of any other State or government, while doing business in this State. Our statute assessing such tax is as follows:

“Every corporation organized and existing under the laws of any State or government other than the State of Vermont and doing business in this State, and every corporation organized under the laws of this State, and having capital stock or deposit of fifty thousand dollars or less, shall be assessed an annual license tax of ten dollars; and for each fifty thousand dollars or fractional part thereof of capital stock or deposit in excess of fifty thousand dollars, five dollars. But no tax shall exceed fifty dollars.”

The various sources of the revenue in the State of Vermont with the amounts derived from each are as follows:

Source.	1902.
Total direct taxes on real and personal property (The Grand List)	\$2,893,466
Amount of above paid into State Treasury	268,522
Taxes paid by the corporations	478,244
Collateral inheritance taxes	55,066

The following table in addition to the mileage of the different railroad systems of Vermont gives the amount of the semi-annual tax which would be levied upon the general property appraisal of the railroads, and the alternative semi-annual tax upon the gross earnings. As shown in the table, and

for obvious reasons, all but two of the companies elect to pay on the gross earnings system.

	Mileage.	Semi-annual Tax on Appraisal.	Semi-annual Tax on Gross Earnings.	
			Dec.	June
Atlantic & St. Lawrence.....	30.56	\$ 3,206	\$ 2,595	\$ 2,754
Barre.....	9.26	1,050	774	869
Bennington & Rutland.....	58.91	5,250	Pays on appraisal	
Central Vermont.....	296.6	28,751	27,002	23,569
Clarendon & Pittsford.....	11.78	875	451	735
Conn & Passumpsic Rivers.....	110.81	16,625	11,424	10,140
Coos Valley.....	12.29	.....	383	360
Delaware & Hudson.....	36.65	2,800	1,758	1,461
Fitchburg.....	12.69	910	Pays on appraisal	
Montpelier & Wells River.....	42	2,625	2,125	1,913
Montreal & Atlantic.....	21.70	2,205	1,210	1,140
Rutland.....	237.55	21,998	18,834	15,082
St. John & Lake Champlain.....	131.5	5,250	4,001	3,576
Vermont Valley.....	24	4,375	3,526	2,936
Woodstock Railroad Co.....	13.88	700	556	464

Of these the Atlantic and St. Lawrence is operated by the Grand Trunk, and the Montreal and Atlantic is operated by the Canadian Pacific.

NEW HAMPSHIRE.

The New Hampshire system of railroad taxation is simply that of the general property tax, with a state organization for the assessment, collection and distribution of the taxes levied upon the property of the corporations, specifically used for railroad purposes, throughout the State. That portion of the property of a railroad company which is not used specifically for railroad purposes is taxed by the municipality in which it is situated, it being provided by law that, "the real estate of railroad, telegraph and telephone corporations and companies not used in their ordinary business shall be appraised and taxed by the authorities of the town in which it is situated."

A State Board of Equalization assesses the railroads upon the actual value of the road, the rolling stock, and equipment, as it was on April 1st of each year. In arriving at its valuation of the railroad property, the Board of Equalization may require the railroads to furnish such information as may be specified by it in the discharge of its duty. In default of furnishing such information, the company may be taxed two per cent. on the par value of its authorized stock and bonds. But, when ordinary conditions are complied with, the stock of the railroads is free from taxation.

The rate of taxation on railroad assessments "must be as near as may be in proportion to the taxation of other property, in all the towns and cities of the State."

"The railroad tax is paid by the corporations to the State Treasurer, and divided as follows: one entire fourth part to towns through which the roads pass, for right of way and buildings, proportioned to expenditure for same." As a basis for the determination of the proportion of this one-fourth of the railroad tax which should go to each town, "the directors of each railroad corporation shall, on the first day of July in the year 1892, and in every

fifth year thereafter, make a return under oath, to the State Treasurer, showing the share of the capital of the corporation expended in each town for buildings and right of way; and the treasurer shall make the apportionment, based upon such expenditures, from such returns." Out of the other three-fourths of the taxes there is paid to the several municipalities where any stock of the railroads is owned, such proportion as the number of shares owned in that municipality bears to the whole number of shares of the corporation. The remainder of the three-fourths of the taxes is retained by the State, and therefore corresponds to the proportion of stock in the railroads which is not held in the State.

In order that the Board of Equalization may have the data upon which to distribute taxes according to the stock held, on the one hand each railroad company is required to furnish a list of the names and residences of the stock holders within the State, and, on the other, each municipality is required to furnish the State Treasurer with a statement of the number of shares in each railroad corporation within it, giving the names of the owners and the number of shares held by each. Where there is a discrepancy in the returns, as between the railroad company and the municipal assessors, the State Treasurer shall decide the matter.

There are no special regulations for the taxation of sleeping car and other transportation companies.

The telegraph and telephone companies are assessed and taxed on their general property, but the whole amount of the tax on these corporations is retained by the State. The taxes collected in 1904 were as follows : telephones, \$9,831; telegraphs, \$2,074.

There is a Railroad Commission in the State, the expenses of which are met by a tax upon the gross receipts of the railroads. In 1904 this tax amounted to \$7,198, being at the rate of one mill on the dollar of the gross receipts.

The rate of taxation levied on the railroad, telegraph and telephone companies in 1904 was 1.7 per cent.

The following table gives the local and State assessment of the different railroads of the State, and the amount of taxes levied by the Board of Equalization :

Railroad.	Local Assessment.	State Assessment.	State Tax.
Boston & Lowell	\$ 9,500	\$ 50,500	\$ 858
Boston & Maine	160,000	3,965,000	67,405
Concord & Claremont	4,000	496,000	8,432
Concord & Montreal	131,000	7,419,000	126,123
Concord & Portsmouth	11,500	600,000	10,200
Connecticut River	15,000	310,000	5,270
Fitchburg	34,000	1,601,000	27,217
Grand Trunk	11,500	348,500	5,924
Manchester & Lawrence	3,300	1,496,700	25,443
Mount Washington	25,000	100,000	1,700
Nashua, Acton & Boston	2,000	18,000	306
Nashua & Lowell	27,600	372,400	6,330
New Boston .....	.....	25,000	425
Northern	11,300	2,358,700	40,097
Pemigewasset Valley .....	.....	160,000	2,720

VALUATION AND TAXATION TABLE—*Continued.*

Railroad.	Local Assessment.	State Assessment.	State Tax.
Peterborough	700	49,300	838
Peterborough & Hillsborough		50,000	850
Portland & Ogdensburg	5,400	294,600	5,008
Sullivan County		750,000	12,750
Suncook Valley	4,500	135,500	2,303
Upper Coos	500	79,500	1,351
Wilton	2,100	297,900	5,064
Worcester, Nashua & Rochester	13,900	1,186,100	20,163
Laconia Street Railway	10,000	25,000	425
Manchester Street Railway		330,000	5,610
Nashua Street Railway	4,500	115,500	1,963
Dover, Somersworth & Rochester Street Railway	15,000	80,000	1,360
Total	\$490,800	\$22,714,200	\$386,141

Valuation and Taxation of State of New Hampshire for year 1904, pp. 6, 7.

GREAT BRITAIN.

The British system of taxation is, as might naturally be expected, a striking example of the stereotyping influence of historic conditions. Except for the comparatively small railway passenger tax levied by the Imperial Government, and not taking account of the income tax on railroad dividends, the railroads of Britain are taxed entirely by local bodies.

As all local rates were originally levied on the visible wealth of the neighbourhood, chiefly reality, and as the landlord and tenant system so largely predominated throughout the country, the system of local taxation grew up upon the basis of the value of tenant holdings, with due allowances for necessary repairs, capital outlay, etc. When this system was established, there was as yet no thought of corporate property in the shape of railways and other transportation and transmission companies extending through scores of parishes, or local unions, and having no connection with the landlord and tenant system. As these properties developed, however, they were, by one device or another, brought under the system already established. This system, through its numerous and more or less artificial adjustments to meet new conditions, had become so complex that it seemed impossible to amend it without rendering confusion worse confounded. The consequence was that, as the railroads expanded into great and wealthy corporations, there grew up a system of valuation for local taxation based entirely on legal fictions, some of them of a rather fantastic character.

In its present shape the railroad tax is in reality a tax upon gross earnings less certain deductions supposed to reduce it to a basis of net income, though it is manifest that this too is a fiction, for, as proved by several writers, the residue accepted as a basis for taxation is not in any normal sense to be taken as net earnings. But, in order to make it square with the law on the subject, the earnings are, as it were, put into a medieval costume and made to wear the mask of a tenant's profits. Thus the fragment of a great railroad system which crosses a rural parish is valued on the basis of what a hypothetical tenant would give for it, if renting it. This

fiction applies to other forms of modern economic properties which extend beyond the limits of a single taxing district.

Some idea of how the system looks to those who are most perfectly familiar with it may be gathered from the following evidence on the subject, taken from the reports of the Royal Commission on Local Taxation. The evidence is that of Mr. J. F. Rotton, Q.C., for fourteen years the legal advisor of the Local Government Board.

(Chairman) "There is one point I passed over rather lightly, I understand the basis of English valuation is what a hypothetical tenant would give for a particular subject? That is so."

"How are railways valued? Theoretically, they are valued in the same way. I should not like, at the present meeting of the Commission, to attempt to go into the question of how, that is to say, what the arithmetical process is, which is, of course, an exceedingly intricate one.

"Now we will take a country parish, twenty miles from London, through which there is half a mile of railway, how is the overseer of that parish to obtain any data at all as to what any hypothetical tenant would give for that particular half mile of railway? It is no doubt exceedingly difficult for the overseer of a particular parish to ascertain what a railway should be charged at, and of course the one mile or half mile of railway is not, for the purposes of ascertaining its value, considered alone, but it is considered as part of a system.

"Do you know as a fact what the overseer of a country parish would do under those circumstances? I suppose that the original ratings of railways must always have been settled by valuers. The system is an exceedingly elaborate one, and it has to take into consideration the earnings of the railway as a whole, and the proportion of those earnings which is attributable to each of the particular miles which is in the parish. Therefore, I take it that the original valuation of the railways must always have been settled by some valuer called in for the purpose.

"Does the valuer have regard to the question of whether a particular mile of railway is a single line or a double line, or quadruple? Yes, he does, and to how much traffic goes over it, whether the whole traffic of the railway goes over it, or only a small portion. Take for instance a mile of railway between, we will say, Harrow and Bletchley, the value of that mile would be very different from the value of a mile on some branch where there are only two or three trains a day.

"But it really amounts to guess work? I should not like to say that. It is not a matter, of course, with which I am personally familiar. They arrive at a result which I daresay would not satisfy an exact logical inquiry in every particular, but it is a result in which both parties acquiesce.

"Is there any one mile of railway in the kingdom as to which some different conditions could not be shown as regards any other mile? I daresay the system is an imperfect one, but I imagine that probably any system which attempts to rate so great an undertaking as a railway, an undertaking which is in so many parishes, and to divide that ratable value according to any principle whatever, between all those parishes, would find the problem one of such intricacy that it could never be satisfactorily solved in a theoretical sense, although it is practically, solved.

"As I gather it from the tenor of your evidence, you regard the system of valuation in England as one which was suitable to the country parishes in former days but which has not kept pace with the requirements of modern valuation? I think I may admit that."¹¹⁹

The Royal Commission on Local Taxation was appointed in 1896 and, after issuing many volumes of evidence and special memoranda, made its final report in 1901. The subject of railroad taxation, among others, is very fully dealt with and contains much enlightening evidence. It is interesting to find that, as in the case of various American States, and particularly some of the older eastern ones, a system once adopted and adjusted, however imperfectly, to a great variety of other interests, is exceedingly difficult to satisfactorily improve, without a radical alteration of the whole system. But such a change must be attended with many and far reaching inconveniences before the newer system is adjusted to the varied and complex economic interests of modern life.

There are very considerable differences, both as to the method of valuation and the principle of distribution, between England, Scotland and Ireland, in dealing with railway taxation. The leading features, however, of the whole British system, stated as far as possible in the language of the Royal Commission, may be given as follows:

"In the absence of special statutory provisions respecting the valuation of railways, an attempt has to be made to value them in accordance with the Parochial Assessment Act, 1836, i. e., upon an estimate of the "net annual value" of each part within a parish.

"The difficulty of this task is two-fold. For, in the first place, railways are never let on the terms contemplated by the Act, they are very seldom the subject of any contract or transaction at all of the nature of letting (or even of sale); and there is no other property resembling railways in such a way that it could be used as a comparative standard for estimating their value. This general difficulty would exist in the case of a railway entirely comprised in one parish, but, in the second place, the problem is greatly complicated by the fact that a railway is seldom or never entirely comprised in one parish.

"There is no general rule for meeting these difficulties. But the usual practice is to meet the former difficulty (i. e., that of valuing a peculiar and practically unlettable property by the adoption of what is known as the "profits" principle. This principle is that a tenant would give as rent a sum equal to the receipts from the property *less* the expenses of earning them, and *less* the ordinary profit which a tenant would expect. It may be observed that valuations on this principle include the value (if any) which may be attributed to the more or less complete monopoly conferred on the railway by natural conditions and Parliamentary enactments, and in this respect, among others, a valuation starting from profits would differ from one which was based on the "contractor's rent" principle, i. e., mainly on capital outlay.

"The further problem of estimating what a tenant would pay for the portion of a railway within any given parish appears still more baffling. For what rent would a tenant give for a mile of a trunk line if he were excluded from making any use of the remainder of the system? But the courts have determined that, although it is the value of the particular portion within

¹¹⁹ Royal Commission on Local Taxation; Minutes of Evidence, Vol. I., pp. 12-13.

the parish which is to be ascertained, it is proper to take into account the fact of its connection with the portion outside the parish. On the other hand, the value of any portion of the undertaking outside the parish must be excluded.

“Stations, as will be seen later, are valued and rated separately. The precise problem, therefore, is to ascertain the net annual value of a Parochial section of the “running line” of a railway. For this purpose the following formula has been given :—Take the gross receipts of the line in the parish, deduct,

“I. *Expenses of Earning*.—The deductions under this head include first,

II. The occupiers’ share, or the amount of profit due on the capital employed, i. e., that part of the net receipts which the supposed occupier would retain as interest on capital and trade profits;

“III. The statutory deductions allowed by the Parochial Assessments Act, and then the net annual value remains.

“I. *Expenses of Earning*.—The deductions under this head include first, the expenses connected with locomotives, carriages, and waggons, the traffic expenses, the general, miscellaneous, and law charges, and the Government duty.

“The total expenses in connection with the locomotives, carriages and waggons are apportioned between the various parishes according to train mileage, whilst the remainder of the deductions (except the Government Duty and tenants rates and taxes) are charged against each parish in proportion to the traffic receipts therein. Government duty is apportioned according to the receipts from the passenger traffic chargeable with the Duty.

“A further deduction is also made in respect of expenses which are reasonably necessary for carrying on the concern, but against which there are no receipts to be put. These consist of “stations, offices, stores, and buildings, and repairing works and premises throughout the railway necessarily used and occupied for the purposes of and in connection with it, and with the conduct of the traffic upon it.” All of these subjects are separately rated, and the deduction in respect of them should be equivalent to the actual value at which they ought to be assessed. In actual practice, however, a fixed percentage of the gross receipts in each parish is often deducted, the percentage varying from 5 to 7 or $7\frac{1}{2}$ per cent.

“II. *Occupier’s Share*.—It is assumed that the tenant of a railway would require capital for outlay for the following purposes :—

“(1) Working plant (rolling stock, machines, tools, horses, furniture).

“(2) Stores, duplicate of plant.

“(3) Floating capital.

“The amount of capital invested in working plant and stores is estimated upon the basis of what it would fetch in the market at the time of valuation, and in order to arrive at this it is customary to take the cost to the company depreciated by a percentage which has been variously determined by the Courts at $12\frac{1}{2}$ to 20 per cent.

“The amount which is allowed to the tenant in respect of his capital varies, but the following percentages have been sanctioned :—

“(1) On capital invested in working plant, $17\frac{1}{2}$ to 20 per cent, made up as follows :—

(a) 5 per cent. for interest on capital.

(b) 10 per cent. for trade profits.

(c) $2\frac{1}{2}$ per cent. to 5 per cent. for risks and casualties.

“(2) On capital invested in stores, 10 per cent.

“(3) On floating capital, 5 per cent.

“III. *Statutory Deductions.*—The sum now arrived at is the gross value of the line.

“The further deduction of the average annual cost of repairs, insurance, etc., leaves the net rateable value.

“The cost of maintaining the permanent way appears to be a deduction, under this head, though it is sometimes regarded as part of the working expenses.

“Stations are rated separately from the rest of the undertaking. They are, roughly speaking, assessed on site and structural value, i. e., a percentage upon the value of the land and the cost of the buildings. What should be included in the term “Station” is a matter upon which some controversy may arise. Amongst other points, the question of the occupation of parts of the station by third parties, such as is the case of bookstalls, refreshment rooms, etc., has to be considered. If such parties have not exclusive occupation so as to render them liable to be directly rated, the rent received by the railway company is taken into account in the valuation of the station. Likewise, the enhancement in value by the letting of spaces for advertisements is taken into consideration, and also the presence of machinery.

“According to the theory of Rating Law, the “Parochial Earnings System,” that is, the system based on the net profits earned in the parish, is more correct than any other, but the difficulties and inconsistencies arising in practice operate against its equitable working. These were pointed out by Lord Campbell, C.J., in a case heard as long ago as 1851, in the following terms:—“The rule laid down by the Parochial Assessment Act is easily applicable to all the property which the Legislature had in contemplation in laying it down. But it is wholly inapplicable to a railway extending many miles, through many parishes, with a trunk line and branches, the traffic upon its different sections bearing no certain proportion to the earnings upon them.

“In 1867 the Royal Commission on Railways recommended: ‘We would suggest that in order to meet inequalities in the local taxation of railways, some means should be devised by which some public authority, such as the Poor Law Board, should make an assessment for rating the whole railway, and then divide the amount according to an equitable principle between the several unions or parishes.’

“A valuation of each railway, as a whole, would abolish many of the difficulties and absurdities of the parochial system. At present an enormous amount of repetition must take place in the examination of the companies’ books by the various authorities (the Midland Railway passes through 900 parishes); and not only would this be avoided, but the valuation would be everywhere carried out on similar lines. The Valuation Authorities cannot be expected to be thoroughly acquainted with the principles of railway valuation, and must, if they wish to perform the work properly, employ a valuer. On the other hand, the railway companies have no representative on the Assessment Committees.

"In Scotland a Railway Assessor makes a yearly valuation of the whole of the railways, and he also values canals, tramways, waterworks, and gas-works. The Scottish system of arriving at the *cumulo* value—that is, the value of the undertaking as a whole—may be briefly stated as follows :—The gross revenue of the railway company is taken from the half-yearly accounts, and then certain deductions are made for working expenses and tenants' allowances, which include 25 per cent. on working stock and plant; 25 per cent. on locomotive machinery, station furniture, etc.; 10 per cent. on stores; 5 per cent. on floating capital, and -8 per cent. on the plant employed in working small lines.

"In Ireland, the railways, like all other properties, are valued by the Commissioner for Valuation. Each railway is valued, as a whole, on the basis of what a hypothetical tenant would pay, having regard to the profits made.

"When a valuation of each railway, as a whole, has been made, the question arises how that valuation should be allocated between the various rating areas. On both the methods in operation in Scotland and Ireland respectively the total value of the railway is first divided between running line on the one hand, and stations on the other, and the value of the stations is allocated to the rating areas in which they are respectively situated. The value of the running line on the Scottish system is allocated according to the mileage of the lines in each rating area. On the Irish system a division is made among the different rating areas according to the number of train miles run in each."¹²⁰

After considering the matter carefully for five years and feeling the necessity of doing as little violence as possible to existing conditions and interests, the Commission made the following recommendations:

"In our First Report we recommended that railways (like other special properties) should be valued, in the first instance, by a Valuer appointed by the County Valuation Authority, and that objections should be heard by that Authority. The evidence that we have since heard, and the more detailed consideration which we have given to the question have now satisfied us that it is desirable to go somewhat further. We think that the Scottish and Irish systems involve fewer difficulties and anomalies than the English system, and that they possess many advantages which the English system does not. The plan of making independent valuation of small sections of each railway cannot, we think, produce entirely satisfactory results, and we therefore now propose that a Central Authority should be appointed, whose duty it should be to value each railway as a whole and to allocate the valuation thus obtained between the various rating areas. Besides being much simpler than the existing system, this plan would, we think, entail less expenditure upon valuation and appeals by both railway companies and Local Authorities, and would also secure that different railways and different parts of railways should be valued on uniform lines.

"For this purpose we suggest that an independent Assessor of Railways should be appointed, and should be entitled to receive such salary and employ such staff as the Treasury may approve. We think that the expense should be borne partly by the Valuation Authorities, and partly by the Railway Companies, who will undoubtedly be relieved of much labour and expense by the new arrangement, but the appointment should be made on the responsibility of the President of the Local Government Board.

¹²⁰ Royal Commission on Local Taxation, Final Report, pp. 56-59.

"The total valuation of each railway should be ascertained in accordance with the statutory definition of net annual value, as it has been interpreted by the Courts. In allocating the valuation of each railway between the different rating areas in which it is situated, the value attributable to the stations (including bookstalls, refreshment rooms, etc.,) should first of all be deducted, and distributed amongst the areas in which the stations are respectively situated.

"The value of the permanent way should then be apportioned amongst the rating areas through which the line passes. We have indicated that the choice of methods for distributing this part of the value of the undertaking appears to lie between line-mileage and train-mileage. These two systems, as already stated, are in force in Scotland and Ireland respectively, and, in considering the question as regards England, we have come to the conclusion that distribution according to train mileage would produce the more equitable results. We are aware that at its inauguration some difficulties would certainly be met with under this system, and that it would involve a somewhat greater amount of work than if line-mileage were the basis of apportionment, but we do not think that, with the establishment of an entirely new system, these considerations should prevent the better method being adopted.

"As stated in our First Report, we think that appeals against the valuation of railways should be heard by the Railway Commission or a Special Tribunal created for the purpose.¹²¹

With reference to other transportation and transmission companies, the Commission came to practically the same conclusion. In their first report they had recommended "that special properties such as railways, canals, mines, tramways, docks, telephones, and gas, water and electric light works should be valued in the first instance by a valuer appointed by the Valuation Authority (i. e., the County or Borough Valuation Authority) objections being heard by that Authority, and appeals lying to the Railway Commission, or a Special Tribunal created for that purpose."

"As has been seen after further considering the system of valuation in Scotland and Ireland, as well as in England and Wales, we have been led to propose a central system of valuation for railways; and with regard to these other special properties we are of opinion that if the occupier of such properties, or the local authorities concerned, desire it, they should be able to have the properties valued by the Government Valuer of Railways instead of by the County or Borough Valuation Authorities, and that an appeal should then lie to the Railway Commission or a Special Tribunal created for that purpose. If this was done, the parties would have the advantage of having the properties valued by experts accustomed to valuing the same classes of property in different parts of the country, who would have no local interest in the results of the valuation. When properties are valued in this way we think that the cost should be defrayed by those interested in the valuation."¹²²

The recommendations amount then to this :

First: Each railway shall be valued as a whole.

Second: The railways shall be valued on their earnings.

Third: The values of the stations shall be deducted and assigned to the different taxing areas within which they are situated.

¹²¹ Royal Commission on Local Taxation, Final Report, p. 60.

¹²² *Ibid.*, p. 62.

Fourth: The remainder of the value shall be attributed to the railway as a whole and shall be distributed to the areas through which the line passes, on the basis of the train mileage.

This system was not regarded as altogether satisfactory either by the railways, the local authorities or the members of the Commission. As pointed out in a separate report by two of the Commissioners, "We believe that no one acquainted with the present system of valuing railways in England would seriously propose its extension." But it was held to be the most satisfactory compromise which could be arrived at without too greatly disturbing the whole system of local taxation.

The objections of the railways to the existing system of valuation and taxation may be gathered from the following statement by Mr. William P. Payne, rating surveyor of the Midland Railway Company, and Chairman of the Railway Rating Surveyors' Association:

"Following the general principle that the rateable value of hereditaments is derived from the rent which a tenant would pay upon a yearly tenancy, the portion of railway falling to be rated in each parish is fixed upon the basis of a rent which a hypothetical tenant might be expected to pay for that portion of railway. Admittedly such a tenancy is practically impossible. There is no element of competition which would enable a judgment to be formed as to a fair rental value, as in the case of a farm, house or shop, and the only guide for the assessment is the traffic carried and the profit earned.

"From this it has arisen that in railway, gas, and water assessments alone, the profit earned is taken as the basis of calculation, and the whole profit beyond the dry interest on an assumed tenant's capital and an allowance for tenant's profits is attributable to a hypothetical rent and therefore to rateable value.

"The effect of this system of calculating a rent backwards from profits is to raise the railway assessment far above that of any other kind of property assessed upon the ordinary basis of rental value, as will be shown later.

"The method of arriving at the valuation of a railway in a parish is necessarily extremely complicated. The foundation is, as stated above, the gross receipts earned in the parish, and as these cannot be derived from any published accounts they have to be calculated in detail.

"The officials of a railway company have to begin by extracting from their books all the receipts from traffic arising or terminating in or passing through the parish. This is necessarily a work of enormous detail, trouble and expense, and when completed each parish has to be credited with its due mileage proportion.

"The gross receipts in the parish being thus ascertained, the first deduction is for working expenses. On account of the variation between the volume of productiveness of traffic in different districts, a deduction of working expenses upon a general average of the railway would not be accurate, and consequently the working expenses, with the exception of the miscellaneous expenses and Government duty, are calculated upon the train miles run in the parish."¹²³

After giving details as to the deductions which are made, and which have been referred to above, he continues: "The Midland Railway passes through some 900 parishes, and the complicated calculation has to be gone

¹²³ Report of Royal Commission on Local Taxation, Appendix to Minutes of Evidence, Vol. I., part II., pp. 371-2.

through with each parish, at greater or less intervals, according to the capacity of the Assessment Committees and overseers.

"The injustice of this mode of assessing railways is obvious if the rateable value arrived at is compared with that of banks, public houses, or large shops.

"The effect of this system is that in 180 parishes where witness has taken out the Midland Company's proportion of the rateable value in the parishes, and also the proportion of their acreage to the total acreage of the parish, the Midland Company pay from 16 to 83 per cent. of the aggregate rates, while their acreage would never exceed five per cent. and would not average two per cent. In 60 out of the 180 parishes the Midland Company's proportion exceeds 50 per cent. of the whole rateable value.

"The railway companies also suffer from the system upon which many unions act in assessing railways. That they should employ professional valuers who make a special study of complicated valuations cannot reasonably be objected to, but the payment of these gentlemen by results, that is to say, by a percentage of the increased rateable value which they can obtain, leads to the necessary consequence that their interest lies in high rather than just valuation. Some of these professional valuers are not slow to tender their services to a union, and witness can produce, if desired, copies of letters written by some of these gentlemen to assessment committees. The result of this is frequently that absurdly high valuations are made, and the railway companies are put to the alternative of submitting to injustice or incurring the very heavy cost of appeal.

"A further grievance of railway companies is that they have no representation upon the bodies controlling the assessment of their property, although their proportion of taxation is so excessive. It is not too much to say that the assessment committees and overseers as a rule regard railway companies as their natural prey. A railway rating surveyor appearing before an assessment committee is necessarily allowed to state his case, but he is almost invariably excluded from any opportunity of hearing the case of the overseers.

"As showing the constantly increasing charge against railways, witness has taken out the percentage of rates and taxes paid by the Midland Company to their gross receipts, which in 1871 were £1, 14s. 2d. per £100, while in 1896 they had reached £3, 8s, 2d per £100. A portion of this is no doubt due to the increased poundage, but increased assessment would count for a large share." ¹²⁴

The percentage on gross receipts of the rates paid by the Great Western Railway was 2.47 in 1882, 3.5 in 1895 and 3.49 in 1896.

The London *Economist* criticises the English Parochial system in the following terms: "Under this system the net annual value of the portion in each parish is supposed to be found, but in reality it is not, since, as we have already shown, the total increase in rateable value between 1894 and 1902 exceeded the additional net annual value by probably 156 per cent. at least. Any upholder of the Parochial system may be safely challenged to show that the rateable value of any single parish in England or Wales is correct, unless by pure accident, and for the following reason. The deductions made from the net revenue, in order to ascertain the rateable value, are calculated on no principle, and can only be described as guess work. For instance, the total value of the rolling stock is usually assumed to be equal to the gross receipts for one year. This is, of course, only guess work, and that it must be frequently bad guess work is suggested by

¹²⁴ Ibid. p. 373.

the fact that in the case of five large Irish railways where the actual value of the rolling stock was taken out and supplied to the Commissioner of Valuation by the companies the value varies from 108 to 147 per cent. of the gross receipts. That such a rule of thumb system of valuation could prevail in England in the twentieth century is almost beyond belief.

"Perhaps the paucity of its merits, and its general indefensibility, are best displayed by the fact that although repeated onslaughts have been from time to time made upon it, yet the motto of those who ought naturally to be its foremost champions has hitherto been "Discretion is the better part of valour," for they have scarcely ever ventured to enter the lists in its defence."¹²⁵

The article favoured the Scottish or Cumulo system, with certain modifications in the method of allocation to taxing districts.

In a later article the same paper drew attention to the enormous expense which the English system entails upon the railways and the people in connection with the collection of local rates and strongly approved of the adoption of the Scottish and Irish system of having the valuation of the railways as a whole placed under a Government department. "It is well-known that the annual cost incurred by the English and Welsh companies on their rating departments, appeals and litigation arising therefrom amounts, on the average, to a very large sum. One important case contested not long ago, cost the assessment committee and the railway company together over £30,000. Now the rating surveyor of one of the principal railways has recently estimated the average annual outgoing thus expended at a sum not exceeding £1,500 per annum for each railway. As there are 106 different systems given in the Board of Trade Returns for 1902, excluding those worked by other lines, this would mean £159,000 per annum. If, on account of the smallness of some of these systems, and in order that our estimate may be on the safe side, we deduct 50 per cent. from this sum, there will be left, say £80,000 as the probable annual outlay, under the Parochial system, due to the three heads of expenditure above mentioned.

"The cost of the Department of the Assessor of Railways and Canals (Scotland) is defrayed by the companies whose property is assessed in proportion to their valuation, and the late assessor stated, in his evidence before the Royal Commission on Local Taxation, that the expense amounted to one-fifth of a penny for each £1 of gross estimated rental, or, say, one-sixth of a penny for each £1 of rateable value.

"The general Valuation Office, Ireland, presided over by the Commissioner of Valuation, deals with the valuation of all classes of rateable property, its powers, unlike those of the Scottish Department, not being confined to railways and canals. The expense in this case is borne partly by the Treasury, and partly by the local authorities, by means of compulsory presentments paid out of the local rates; but the total liability of the latter bodies takes the form of a fixed annual contribution of £8,000 per annum. Even assuming that the cost of a Government Department established for the purpose of assessing all the English and Welsh lines were to be 50 per cent. greater than is the case in Scotland, the total expense would only amount to about £18,000 per annum, the present total rateable value of those railways being taken to be about 17½ millions.

"During the last 12 years not a single Irish company has appealed against the valuation of its system, although the assessment of every line revalued during that period has been, with one exception very largely increased. Further, the outlay incurred on rating appeals has been insigni-

ficant, since only two local authorities have applied to the Courts, and since none of these companies possess either a rating department or a rating surveyor, none being required.

"It seems reasonable to suppose that, if the same system were applied to England and Wales, similar results might be looked for, i. e., the number of, and consequently the expense involved in, appeals would be diminished, and the companies would be forever rid of the necessity of maintaining large staffs solely for the purpose of dealing with rating matters."¹²⁶

TAXATION OF RAILWAY AND OTHER TRANSPORTATION COMPANIES IN CANADA. ONTARIO.

In Ontario there had been practically no change in the taxation of railways, from the first period of railway construction in the early fifties, down to the introduction of the Provincial mileage tax in 1899. The railroads were taxed by the municipalities alone, and only upon their real estate, which meant, in most municipalities, simply upon their lands as valued at the same rates as adjoining lands. Their personal property was not taxed. The stock of railways and other similar corporations was exempt from taxation, though not the income therefrom.

The law as it stood at the time of the last revision of the statutes in 1897 was as follows:—"Every railway company shall annually transmit, on or before the first day of February, to the clerk of every municipality in which any part of the roadway or other real property of the company is situated, a statement showing:

"1. The quantity of land occupied by the roadway, and the actual value thereof, according to the average value of land in the locality, as rated on the assessment roll of the previous year;

"2. The real property, (other than the roadway) in actual use and occupation by the company, and its value;

"3. The vacant land not in actual use by the Company, and the value thereof, as if held for farming or gardening purposes;

"And the clerk of the municipality shall communicate such statement to the assessor, who shall deliver it, or transmit by post to, any station or office of the Company a notice addressed to the Company of the total amount at which he has assessed the real property of the Company in his municipality or ward."¹²⁷

"The personal property of a Bank or of a company which invests the whole or the principal part of its means in gas works, water works, plank or gravel roads, railway and tram roads, harbours or other works requiring investment of the whole or principal part of its means in real estate, shall, as hitherto, be exempt from assessment; but the shareholders shall be assessed on the income derived from such companies."¹²⁸

Under the new assessment act of 1904 the power of the municipalities with reference to the assessment and taxation of railroads was somewhat enlarged and the law as it now stands is as follows:

¹²⁶ The Economist, 1904, p. 904.

¹²⁷ R. S. O., chap. 224, sec. 31.

¹²⁸ Ibid., sec. 39, (2.)

RAILWAYS.

“(1) Every steam railway company shall annually transmit on or before the first day of February to the clerk of every municipality in which any part of the roadway or other real property of the company is situated, a statement showing :—

“(a) The quantity of land occupied by the roadway, and the actual value thereof (according to the average value of land in the locality) as rated on the assessment roll of the previous year;

“(b) The vacant land not in actual use by the company and the value thereof;

“(c) The quantity of land occupied by the railway and being part of a highway, street, road or other public land (but not being a highway, street or road which is merely crossed by the line of railway) and the assessable value as hereinafter mentioned of all the property belonging or used by the company upon, in, over, under, or affixed to the same;

“(d) The real property, other than aforesaid, in actual use and occupation by the company, and its assessable value as hereinafter mentioned;

and the clerk of the municipality shall communicate such statement to the assessor.

“(2) The assessor shall assess the land and property aforesaid as follows :

“(a) The roadway or right of way at the actual value thereof according to the average value of land in the locality; but not including the structures, substructures and superstructures, rails, ties, poles and other property thereon;

“(b) The said vacant land, at its value as other vacant lands are assessed under this Act;

“(c) The structures, substructures, superstructures, rails, ties, poles and other property belonging to or used by the company (not including rolling stock and not including tunnels or bridges in, over under or forming part of any highway) upon, in, over, under or affixed to any highway, street, or road (not being a highway, street or road merely crossed by the line of railway) at their actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises, regard being had to all circumstances adversely affecting the value including the non-user of any such property; and

“(d) The real property not designated in clauses (a), (b) and (c) of this subsection in actual use and occupation by the company, at its actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises.

but the telephone and telegraph plant, poles and wires which are used exclusively in running trains or for any other purposes of a steam railway and not for commercial purposes shall, as heretofore, be exempt from municipal assessment or taxation.

“(3) The assessor shall deliver at, or transmit by post to, any station or office of the company a notice, addressed to the company, of the total amount at which he has assessed the said land and property of the company in his municipality or ward showing the amount for each description of property mentioned in the above statement of the company and such statement and notice respectively shall be held to be the assessment return and notice of assessment required by sections 18 and 46 respectively of this Act.

"(4) A railway company assessed under this section shall be exempt from assessment in any other manner for municipal purposes except for local improvements.

"When an assessment has been made under the provisions of section 44 the amount thereof in the roll as finally revised and corrected for that year shall be the amount for which the company shall be assessed for the next following four years in respect of the land and property included in such assessment; but at any time before the return of the assessment roll, in any year, the said amount may be reduced by deducting therefrom the value of any land or property included in such assessment which has ceased to belong to the company, and a further assessment may be made of any additional land or property of the company not included in such assessment." ¹²⁹

This for the first time renders the rails, ties, and other superstructures off the railway subject to taxation, though only when situated on a public highway. But in the absence of a Provincial board of valuation and assessment, this portion of the act is likely to be unequally applied.

Most of the transportation companies, coming under section 39 of chap. 224 of the revised statutes of 1897, escaped taxation on their personal property, but otherwise, in the matter of taxation, were treated as private property. Under the Assessment Act of 1904, however, the taxation of several of these corporations, for municipal purposes, has been very much altered and in some cases materially increased.

In the first place, the taxation of personal property has been abolished all round. But this will affect only those corporations which previously paid taxes on personalty. When the income of a corporation is made subject to taxation the dividend or income of private individuals from stock held in such corporations is exempt from taxation, in other words, the income is assessed to the corporation, not to the shareholders. This leaves all such corporations as electric street railways, telegraph, telephone, express, and other transportation and transmission companies subject to taxation for municipal purposes on their real estate only, except where additional taxes are specifically prescribed. Such additional taxes are provided for under the name of "Business Assessment." This takes the form of a surtax based on the regular real estate assessment.

Express companies are subject to a business, or surtax of 75 per cent. on their real estate assessment. Telegraph and telephone companies and electric or street railway companies are subject to a surtax of 25 per cent. on the ordinary assessment "exclusive of the value of any machinery, plant or appliances erected or placed upon, in, over, under or affixed to such land."

Telegraph and telephone companies, in addition to the taxes already specified, are subject to another special tax for municipal purposes.

In cities, towns, or villages, telephone companies are to be assessed at 60 per cent. of their gross earnings, and in cities of over 10,000 inhabitants, 75 per cent. of their gross earnings.

In townships, telephone companies shall be assessed at the rate of \$135 per mile for each single wire or circuit, and \$7.50 for each additional wire or circuit, the length of wires in villages and for short branches not to be included.

Telegraph companies in cities, towns, or villages shall be assessed at 50 per cent. of their gross receipts, and in townships the assessment shall be at the rate \$40 per mile for a single wire, and \$5 per mile for additional wires.

⁹ 4 Edward VII., chap. 23, secs. 44-45.

12a R.T.C.

In virtue of this special taxation, telephone and telegraph companies are, in townships, to be exempt from all other forms of taxation, and in cities, towns and villages, to be exempt from assessment "in respect of all plant, appliances and machinery wherever situated, and in respect of all structures, poles, on, over, under or affixed to any highway, road, street, lane, or public place or water."

The telegraph and telephone companies are required to furnish to the Provincial Secretary the necessary returns as to gross receipts and length of wires, to serve as the basis of the special assessments provided for.¹³⁰

In 1899 the Province of Ontario made a new departure in providing for taxes on various corporations to supplement the Provincial revenue. Among such corporations were those connected with the leading forms of transportation and transmission.

The railways were treated in the simplest possible manner, regardless alike of the relative values of their general property, of the capital employed, or of the earning power of the roads. This, however, was of comparatively small importance, since the tax levied was at the very modest rate of \$5 per mile, switches, sidings and double tracks not being included. This tax did not apply to electric railways or tramways.

In 1904 the tax was considerably increased, and some rough graduation in rates introduced. As it now stands, "every railway company owning, operating or using a steam railway in this Province shall pay a tax of \$30 per mile for one track and \$10 per mile for each additional track, where the line consists of two or more tracks, operated or used in any county in this Province, and \$20 per mile for one track and \$5 per mile for each additional track so operated or used in unorganized territory, being the districts without county organization; except that a railway company owning and operating a steam railway not exceeding 150 miles in length from terminus to terminus, and not being leased to or amalgamated with or forming part of the system of any other company, shall pay a tax of \$15 per mile for one track and \$5 per mile for each such additional track."¹³¹

The mileage for taxation purposes shall not include switches spurs or sidings. The Provincial tax on street railways is also levied on the mileage basis and is graduated according to the length of the whole system. Thus every street railway "shall pay a tax of \$20 per mile for each mile of track in such city, when the whole line does not exceed 20 miles, \$35 per mile for each mile of track when the whole line exceeds 20 miles, but does not exceed 30 miles, \$45 per mile for each mile of track when the whole line exceeds 30 miles, but does not exceed 50 miles, and \$60 for each mile of track when the whole line exceeds 50 miles. In all cases the mileage shall be computed on the single track, each mile of double track being counted as two miles of single track."¹³²

Telegraph companies which own lines operated by others, or companies which operate lines owned by others shall pay a tax of 1-10 of 1 per cent. on the paid up capital of such company. A similar tax may be levied upon the amount of capital invested in a telegraph line owned by a railway company so far as it is situated in Ontario, and so far as it is not used exclusively for the running of trains.¹³³

"Every telephone company working or operating a telephone line for gain in the Province shall pay a tax of one-eighth of one per cent. on the paid up capital of such company."¹³⁴

¹³⁰ 4 Edward VII., chap. 23, sec. 15.
¹³² 62 Vict. (2), chap. 8, sec. 2, para. 6.

¹³¹ 4 Edward VII., chap. 5.
¹³³ Ibid. paras. 7 and 8. ¹³⁴ Ibid para. 9.

"Express companies operating over 400 miles of railway or a fraction thereof in the Province, shall pay a tax of \$800 and shall pay an additional tax of \$125 for every additional 400 miles, or fraction thereof."¹³⁵

Sleeping car companies whose cars are used within the Province "shall pay the sum of one-third of one per cent. upon the capital of the company invested in such cars and rolling stock in use in Ontario during the preceding year."¹³⁶

Returns necessary to determine the taxes levied are required from the various companies subject to Provincial taxation.

The revenue obtained by the Province from the above classes of transportation and transmission companies is as follows :

Supplementary Revenue collected in 1904, on Railways, Electric Railways and Sleeping Car Companies.

Railway.	Mileage.	Remarks.	Total.
Bay of Quinte	93.675	Under 150 miles	\$1,405 12
Thousand Islands	6.33	do	94 95
Kingston and Pembroke	103.1	Under 150 miles and \$7.50 for telegraph	1,554 00
Brockville, Westport and Sault	45.	Under 150 miles	675 00
Central Ontario	134.60	do	2,019 00
Canadian Northern	353.50	All in unorganized districts	7,070 00
Grand Trunk (123.97 miles in unorganized districts.)	2531.62	Single track	83,299 50
do.	487.15	Double track	10,424 88
Canada Atlantic	389.5	\$9.68 for telegraph	82 50
Nosbonging and Nipissing	5.5	Under 150 miles	11,465 70
Canada Southern	382.19	do	825 00
Ottawa and New York	55.	Under 150 miles	285 00
Niagara, St. Catharines and Toronto	19.	do	525 00
Tilsonburg, Lake Erie and Pacific	35.	do	6,702 30
Lake Erie and Detroit River	223.41	Under 150 miles	1,255 05
Toronto, Hamilton and Buffalo	83.67	\$238.72 for telegraph	60,35 72
Canacian Pacific	2404.1		
Total			\$187,918 72
Electric and Street Railways.			
Port Dalhousie, St. Catharines and Thorold ..	2.70		54 00
Sandwich, Windsor and Amherstburg	5.5		110 00
Hamilton and Dundas	3600 feet.		13 63
London Street Railway	17.91		358 20
Hamilton, Grimsby and Beamsville	1.5		30 00
Hamilton Street Railway	19 miles 64 feet.		380 24
Kingston, Portsmouth and Cataraqui	6 miles 144 feet.		120 54
Toronto and Mimico	1.6443		32 88
Toronto Railway	84.9857		5,099 14
Toronto and Scarboro .....	.0384		76
Brantford	7.	Tax paid in 1905	
Ottawa	22.991		804 68
Hamilton Radial	2 miles 2240 feet.		48 48
Guelph Radial	5.5		110 00
Metropolitan	1500 feet.		5 68
Woodstock, Thames Valley and Ingersoll	1.688	Tax paid in 1905	
Sleeping Car.			\$7,168 23
Pullman Palace Car Co.			\$1,185 94

N. B.—The Steam Railways were only taxed in previous years on a flat rate of \$5.00 per mile.

QUEBEC.

In the Province of Quebec the railways and other transportation companies are subject to municipal taxation on practically the same lines as prevailed in Ontario previous to the assessment act of 1904. Under certain conditions, however, railway companies are exempt from taxation. Under the list of exemptions we find: "all property belonging to railway com-

¹³⁵ Ibid. para. 12.

¹³⁶ Ibid. para. 13.

panies, receiving grants from the Provincial Government, for the whole time during which such grant is accorded." ¹³⁷

The general clause of the assessment act covering railways is as follows: "Railway Companies, other than those mentioned in the fifth paragraph of the preceding article, which possess real estate in the municipality, shall transmit to the office of the council, in the month of May in each year, a return showing the actual value of their real estate in the municipality other than the road, and also the actual value of the land occupied by the road estimated according to the average value of land in the locality.

"The valuator, in making the valuation of the taxable property in the municipality shall value the real estate of such company, according to the value specified in the return given by the company. If such return has not been transmitted in the time prescribed, the valuation of all the immovable property belonging to the company is made in the same manner as that of any other rate payer." ¹³⁸

For the purpose of supplementing the provincial revenue, the Province of Quebec has for years past levied special taxes upon corporations of various kinds. Under the laws given in the revised statutes of 1888 the basis and rates of such taxation, so far as they affect transportation companies, are as follows :

"Incorporated Navigation Companies. (a) One-tenth of one per cent. upon the amount of the paid up capital up to \$500,000, inclusively, and \$50 for every \$100,000 or fraction of \$100,000 above \$500,000. (b) An additional tax of \$50 for the most important office or place of business in each of the cities of Montreal and Quebec, and of \$20 for the most important office or place of business in any other place." ¹³⁹

"Telegraph companies. (a) Every telegraph company and every other company working a telegraph line for the use of the public, one-tenth of one per cent. upon the amount of the paid-up capital up to \$50,000, inclusively; (b) \$2,000 for every company the paid up capital whereof exceeds \$50,000." ¹⁴⁰

"Telephone Companies. One-tenth of one per cent. upon the amount of the paid up capital if \$50,000 or less, and \$1,500 if the paid up capital exceeds \$50,000." ¹⁴¹

"City Passenger, Railway or Tramway Companies. \$50 for each mile of single track of railway or tramway in operation, and \$100 for each mile of double track in operation." ¹⁴²

"Railway Companies. (a) The railway companies mentioned in the schedule of this section, and every railway company having received or receiving subsidies from the Government of this Province, \$10 for each mile of railway in operation. (b) All other railway companies \$5 for each mile of railway in operation." ¹⁴³

There having been no change in the law since the revision of 1888, these provisions are still in force.

The provincial revenue derived from these sources in the year 1902-03 was as follows :—

Navigation Companies	\$2,403 05
Telegraph Companies	73 00
Telephone Companies	1,834 73
Tramway Companies.....	6,612 00
Railway Companies	28,089 05

¹³⁷ R.S.Q., art. 4500, subsec. 5. ¹³⁸ R.S.Q., arts. 4501-4502.

¹³⁹ R.S.Q., art. 1145, V. ¹⁴⁰ Ibid. VI.

¹⁴¹ Ibid. VII. ¹⁴² Ibid. VIII. ¹⁴³ Ibid. IX.

The chief additional returns are derived from banks, insurance companies and general corporations, the total, including the above, amounting to \$226,338.23. (Statement of Public Accounts, Province of Quebec, for year ending 30th June, 1903, p. 58.)

NOVA SCOTIA.

In Nova Scotia the real and personal property of corporations is taxed for municipal purposes only, and upon the same basis as any other property. Under the head of exemptions, however, special provision is made for the exemption of certain railroads in the following terms: "The road, rolling stock, bed, track, wharves, station houses, buildings and plant used exclusively for the purposes of any railway, either in course of construction or in operation, exempted under the authority of any act passed by the Legislature of Nova Scotia." In practice, these conditions of exemption appear to apply to practically all the railways in Nova Scotia.

No provision is made for the provincial taxation of railways or other transportation companies.

NEW BRUNSWICK.

In New Brunswick, as far as municipal taxation is concerned, the assessment act makes no special mention of railways or other transportation companies. However, the real estate and paid up capital of joint stock companies in general may be taxed for local purposes. Only the real estate of railways appears to be taxed by the municipalities through which they run, their rolling stock and personal property being exempt.

The Provincial Government levies a tax upon certain corporations, although it does not as yet include railways in the list. Among the corporations affected by this tax are the following:

Express Companies. "Upon all companies doing an express business and operating over a railway mileage of 500 miles and upwards within the Province, \$250 each; and all similar companies operating over a railway mileage of 250 miles, and not exceeding 500 miles within the Province, \$125; and all similar companies operating over a railway mileage of not less than 100 miles and not exceeding 250 miles, \$50."¹⁴⁴

Telephone Companies. "Upon all telephone or other companies working telephone lines for the use of the public within the Province, an amount equivalent to 25 cents upon each telephone under rental from each of the said companies respectively."¹⁴⁵

Street Railway Companies. "Upon all city, passenger or street railway companies operating their lines within the Province, not less than \$50 for each mile, nor more than \$100 for each mile operated by any such company, in the discretion of the Governor-in-Council."¹⁴⁶

Telegraph Companies. "Upon every telegraph or other company working a telegraph line for the use of the public within the Province, \$500; but in the case of any such company leasing or working a less number of miles of wire than 100 miles within the Province, the tax shall be \$100."¹⁴⁷

In an act of 1901 respecting the development of coal areas in the counties of Queens and Sunbury, the Province offers to guarantee the principal and interest to the extent of \$250,000 of first mortgage bonds for the construction of a railway to develop the coal areas in these counties. Among

¹⁴⁴ C.S.N.B., 1903, chap. 18, sec. I, subsec. 5.

¹⁴⁵ Ibid. subsec. 6.

¹⁴⁶ Ibid. subsec. 7.

¹⁴⁷ Ibid. subsec. 9.

other provisions as to sinking funds, etc., it is provided that, "the Lieutenant-Governor in Council is hereby authorized, after the completion of the said railway, and the development of such coal areas, to impose a tax upon the said company, and upon all other railway companies within the Province, to an amount to be fixed by the Lieutenant-Governor-in-Council, but not exceeding three per cent. of the gross earnings made within the Province each year, and not exceeding in any year an amount which would in the opinion of the Lieutenant-Governor-in-Council, be equivalent to fifteen cents per ton upon all coal used by such railway company within the Province in the year immediately preceding the imposing of such tax; provided, however, that the Lieutenant-Governor-in-Council may allow an abatement of such tax to the amount of the royalty imposed by the Province on all coal used by such railway company, or in connection with industries, hereafter established along the line thereof.

"Should the Lieutenant-Governor-in-Council decide to impose such tax, he is hereby empowered to make and prescribe all necessary provision for the collection thereof, which shall have the same force and effect as if herein enacted."¹⁴⁸

The provisions of this Act have not yet been brought into force.

In 1903 the Province received the following revenue under the Corporation Tax, from transportation and transmission companies:—

Express Companies (2)	\$ 500 00
Telegraph Companies (4)	1,200 00
Telephone Companies (5)	488 88
Street Railway Companies (2)	500 00

The total revenue derived from corporations, being chiefly from fire and life insurance companies and banks, amounted to \$29,340.

MANITOBA.

In Manitoba, up to 1900, the property of railways and other transportation companies, except where specially exempt, was subject to taxation in the municipalities on the same basis as any other form of property. In 1900, however, two acts were passed, the Railway Taxation Act,¹⁴⁹ and the Corporations Taxation Act,¹⁵⁰ which between them took from the municipalities all right of taxing railways, street railways, telegraph, telephone and express companies, as well as many other corporations.

The obvious intention of these measures was to augment the revenue of the Provincial Government without a resort to direct taxation on the general property of the Province.

The Railway Taxation Act applies to steam railways only, the other transportation companies coming under the general act for the taxation of corporations. Railways are to be taxed on their gross earnings at a rate not to exceed three per cent. and this tax shall be in lieu of all other taxes on railways, except on land subsidies or land held for sale. Railway companies, however, may be liable for local improvement taxes in towns and cities.

The chief features of the law governing the taxation of railways, as it stands at present, are as follows:

"In order to supplement the revenues of the crown in the Province of Manitoba, every railway company at present owning or operating, or which

¹⁴⁸ C.S.N.B., 1903, chap. 82, sec. 15.

¹⁴⁹ 63-64 Vict., chap. 57. ¹⁵⁰ 63-64 Vict., chap. 55.

may hereafter own or operate, any line or lines of railway within said Province shall annually pay to the Crown in this Province such part of the gross earnings of such railway companies in the Province of Manitoba as may be determined by the Lieutenant-Governor-in-Council, not to exceed, however, three per cent. of the gross earnings of such companies.

"At or before the time of payment of said tax, each railway company shall deliver to the said treasurer a statement showing fully and completely the gross earnings of the line or lines or part or parts of line or lines of railway in the Province owned or operated during the year, upon which the said tax is paid.

"For the purpose of ascertaining the truth of any statement or statements made under by virtue of the provisions of this Act, full power and authority is hereby vested in the Provincial Treasurer, with the approbation of the Lieutenant-Governor-in-Council, to examine under oath the officers and employees of the company making such statement or statements, and in such action the Treasurer shall have the same power to require the production of documents and enforce the attendance of witnesses, and to compel them to give evidence as is vested in any court of law in civil cases.

"The taxes imposed by this Act shall form part of the consolidated revenue of this Province and any and all expenses incurred in carrying out this Act may from time to time be paid out of such revenue on the recommendation of the Provincial Treasurer.

"Nothing contained in this Act shall take away or lessen any exemption from taxation heretofore granted any railway companies by or under any act of the Legislature of Manitoba.

"Every railway company coming within and paying taxes under the provisions of this Act or any act or acts amending this Act, and the property of every nature and kind of every such railway company, except the land subsidy to which such company is or may be entitled from the Dominion Government, and any land held by it for sale, shall during the continuance of this Act or any act or acts amending this Act, be free and exempt from all assessments and taxation of every nature and kind within the Province of Manitoba by whomsoever made or imposed except such as are made and imposed under the provisions of this Act or any act or acts amending this Act, and no person or body corporate or politic having power to make assessments or impose taxation of any kind shall during the continuance of this Act, or any act or acts amending this Act, make any assessments or impose any taxation of any kind, of or upon any such railway company or any property of such railway company or any property of such railway company except the land subsidy to which such company is or may be entitled from the Dominion Government and any land held by it for sale as aforesaid."

This, it will be recognized, is a very simple form of railway taxation, since it requires no specific returns as to the traffic or earnings of the companies. It lays down no principle upon which the proportion of the gross revenue of a railroad is to be apportioned to the Province as a basis for assessment. The only return required is as follows: "That the gross earnings of a railway owned or operated by the said company in the Province of Manitoba for the year ending the 31st day of December was the sum of \$ (State full particulars, giving in the case of each line and branch line of railway owned or operated, the gross earnings thereof separately)."

A railroad company has thus a very wide margin upon which to come and go in assessing its revenue attributable to the Province of Manitoba.

It is provided, however, that "if the Treasurer is not satisfied as to the correctness of the statement made and returned by a railroad company, under the provisions of this Act, and he is confirmed in this view after due inquiry and investigation, and is of the opinion that the gross earnings returned in such statement should be increased, he may appoint, with the approval of the Lieutenant-Governor-in-Council, one or more competent persons possessing, in his opinion, adequate qualifications to determine and report the true gross earnings upon which, in his or their opinion the taxes imposed in this Act should be paid and the report or determination of the person or persons so appointed in the premises shall be final as to the particulars mentioned in such report, and not subject to variation or be questioned in any manner whatsoever."

No doubt in time a more definite system will be adopted. But, as may be observed from the returns given below, the revenue derived as yet from the taxation of railways in Manitoba is so slight, that any considerable expense connected with the collection of it would seriously impair the income from that source. Under the general act for the taxation of corporations, is found the basis for the taxation of all other transportation companies. Their treatment is as follows :

Street Railways. "Every street railway company in the Province of Manitoba and every company working or operating a railway or part thereof entirely or partly by electricity in any city in the said Province for carrying passengers shall pay a tax of \$200 for three years commencing from and inclusive of the year 1900 and the sum of \$500 in each any every year thereafter, where the whole line of track is 20 miles or less, and \$10 for each mile of track in excess of said 20 miles. In all cases the mileage shall be computed on the single track, each mile of double track being counted as two miles of single track. Switches or siding, tracks into car sheds, Y's and portions of track not in general use shall be excluded from the computation of mileage."

Telegraph Companies. "Every telegraph company which owns a line or part of a line of telegraph, or every company owning a telegraph line, where the same or part thereof is operated or worked by others or by any company other than the owners within the Province of Manitoba, and every company which operates or works in the Province aforesaid a telegraph line part of a telegraph line or one or more lines or parts thereof under lease of agreement with the owners of such line or lines or parts thereof, shall pay a tax of \$1 for each and every line operated and worked.

"Every railway or other company other than a telegraph company, which owns or operates a line or lines or part of a line or lines of telegraph operated in the Province of Manitoba, shall pay a tax of \$1,000." This may be remitted upon proof that such telegraph lines are used only for the purposes of running trains, and not for commercial purposes.

Telephone Companies. "Telephone companies working or operating telephone lines or systems in the Province for gain shall severally pay the following tax :—In cities having a population of 10,000 or over, an amount equivalent to 50 cents upon each revenue producing exchange circuit under rent from each of the said companies respectively; in cities having a population under 10,000 and in incorporated towns and villages, an amount equivalent to 25 cents upon each revenue producing exchange circuit under rent from each of the said companies respectively."

Express Companies. "Express companies operating and carrying on business in the Province of Manitoba, shall pay the following tax : Com-

panies having fifty branches or offices or over, \$350; companies having offices or branches under fifty in number, \$250."

The taxes here specified to be paid to the Province are in lieu of all other taxes provincial or municipal. The same applies to all other corporations taxed under this act.

The following is a statement of the taxes paid to the Provincial Government for the year 1903, by railways, and other transportation and transmission companies :

Railway Tax:

Canadian Pacific Railway Company	\$54,903 86
Canadian Pacific Railway Company on Man. S. W. Col. Ry.	10,096 66

Express Companies:

Dominion Express Company	350 00
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Telegraph Companies:

C. P. R. Company's Telegraph	1,000 00
G. N. W. Telegraph Company	72 00

Telephone Companies	1,255 75
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Street Railways:

Winnipeg El. St. Ry. Co.	500 00
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BRITISH COLUMBIA.

British Columbia is the only Province which raises a provincial revenue by taxes upon real and personal property and income. The income tax is employed for provincial purposes only.

There is a special act covering the assessment of railroad companies, though the rate to be levied and the general condition of the Assessment Act "apply to the assessment, levy, and collection of the taxes hereby imposed." The special feature of the assessment of railways in British Columbia is the taking of the real estate, the personal property and the income of each railway as a whole, and assessing it at a uniform rate of \$10,000 per mile for main track, while the sidings and switches, etc., are assessed at \$3,000 per mile. This assessment does not apply, however, to the railroad property lying within a few municipalites incorporated before 1895. These are allowed to retain the privilege of assessing the railways within them on their real estate. On the railways as assessed in accordance with the special act applied to them, there is levied the regular rate of one per cent. as provided for in the General Assessment Act.

The chief features of the special act dealing with the assessment of railway companies,¹⁵¹ are as follows:

"2. No municipality incorporated after the twenty-first day of February 1895, and no municipality to be hereafter incorporated, shall assess any railway company for taxation on its railway; but every railway, notwithstanding that the same runs through or within the limits of a municipality incorporated subsequent to the said date, or hereafter to be incorporated as aforesaid, or through or within the extended limits of any municipality under any extension of limits made subsequent to the said date, or hereafter to be made, shall be subject to assessment and taxation under this Act, or rather the law in force for the time being relating to the provincial taxation of railways and the expression "railway" in this section shall include all the property mentioned in section five of this Act.

¹⁵¹ 3rd and 4th Edward VII., chap. 52.

"3. Every railway company shall annually transmit, on or before the first day of October in every year, to the Surveyor of Taxes and Inspector of Revenue for the Province, a statement showing :

"(1) Under what acts of the Province the company claims exemption from taxation upon its real and personal property and income, the date of the completion of the railway, the dates of selection of the lands granted under such acts, the dates of such grants and the acreage included therein;

"(2) The number of miles of track, including sidings, of the railway company situated within the Province, and specifying the portions of such track and sidings respectively situated within and without the limits of any municipal corporation and name of municipality;

"(3) Any other real property of the company liable to taxation (specifying in detail the portions thereof which are respectively situated within and without the limits of any municipal corporation, and not occupied by the company for its right of way, or for station or engine houses, or freight sheds, or other buildings connected with the actual operation of the railway;

"(4) All lands sold, pre-empted, or leased within the limits of such grants as are held under any land grant or subsidy act of this Province, giving in tabulated form the number of acres sold or agreed to be sold or leased, name of person to whom sold or agreed to be sold, or leased, date of deed, agreement or lease, consideration mentioned therein, and assessment district in which located.

"5. The land occupied and claimed as the right of way for a railway by any railway company, and situate without the limits of municipal corporations incorporated before the twenty-first day of February, 1895, and other lands occupied by the company for station or engine houses, or freight sheds, or other buildings connected with the actual operation of the railway and situate without the limits of municipal corporations incorporated before the twenty-first day of February, 1895, together with the personal property and income of the company, including the rolling stock, shall be assessed and taxed as a whole as real estate, and at the sum of ten thousand dollars per mile of track. The measurement of track shall not include switches, spurs or sidings, but all switches, spurs and sidings of any railway company situate without the limits of any municipality incorporated before the twenty-first day of February, 1895, shall be assessed and taxed as real estate, and at the sum of three thousand dollars per mile.

"6. The lands mentioned in subsection (3) of section 3 hereof, situate without the limits of any municipal corporation, shall be assessed and taxed as real estate or wild lands, in accordance with the provisions of the "Assessment Act."

This Act does not apply to electric railways operating within municipalities, or to steam railways used exclusively for the carriage of logs, ores or coal.

In order to complete the system of railway taxation, and in order to discover how other transportation and transmission companies are assessed and taxed, we must turn to the general features of the assessment act. ¹⁵²

For the purpose of provincial assessment and taxation the Province is divided into assessment districts and all parties are assessed and taxed within these districts, except where exempt, upon their real and personal property

and income. Real property in the form of homesteads and all personal property is exempt to the extent of five hundred dollars, and incomes to the extent of one thousand dollars. Where there are regular municipal corporations within the Province, the lands within them, being subject to municipal taxation, are exempt from provincial taxes. The rates of taxation on real and personal property and income are as follows: "One per cent. on the assessed value of real estate other than wild land. Five per cent. on the assessed value of wild land." These rates apply to the railroad assessments as provided under the railroad assessment act. "One per cent. is the tax levied on assessed value of all personal property." There is a graduated income tax ranging from two and a half to three and a half per cent.

Certain specified corporations are taxed under a special section of the Act dealing with the "Taxation of Corporations." The general provisions for the taxation of corporations are as follows:

"6. (1) The following specified corporations, companies and associations, hereinafter in this Act and in the schedule of forms thereto, called "Corporations," transacting business within this Province, shall be assessed and taxed at the rates and according to the principles set forth in the following subsections:

"(5) Every telegraph, telephone and express company; every electric lighting company, electric power company and street railway company shall be assessed and taxed upon its gross revenue, from all sources derived, arising or accrued from business transacted in this Province, and in accordance with the returns to be made to the assessor of the Victoria assessment district." The tax on the gross revenue is fixed at one per cent.

In addition to this tax, however, the corporations are subject to taxation upon their real estate in the various districts, as the following section will show:

"(11) The corporations mentioned in subsection (5) shall not be liable for the tax upon income and personal property, as enacted in section 5 of this Act, in addition to the tax imposed upon their gross revenue, but said corporations shall be liable to assessment and taxation upon real property in the assessment districts in which the same is situate."

If subject to taxation on their real estate within municipalities, "real property belonging to any corporation lying within any municipality shall not be assessed or taxed under this section."

Certain corporations, however, receive special favours. "Where any corporation assessed and taxed under the heading 'Taxation of Corporations' shall have its business and property wholly within and confined to this Province, and where it has derived its power by statute from this Province, whereby the prices to be charged by it for public services have been limited by any statute of the Province or any municipal by-law, such company shall be exempt to the extent of one-half of the rate of tax imposed on its gross revenue, but only in the event of its operating expenses exceeding fifty per cent. of its gross revenue in any one year."

As we have seen, in the special act for the taxation of railways the municipalities, other than those incorporated before 1895, are not permitted to tax the railways, whose general property under the name of real estate is taxed directly by the Province and not through the machinery of the districts, as in the case of all other corporations.

According to the principle of taxation applied to the several corporations, the necessary returns are required to be furnished to enable the assessors to levy the prescribed taxes.

The sources and proportions of the revenue obtained by British Columbia from direct taxation will be indicated in the following returns for the year ending June 30th, 1903:

Revenue tax	\$142,737
Real property tax	205,492
Personal property tax	93,792
Wild land tax	71,340
Income tax	28,875

To the real property tax the railroads contributed as follows:

Canadian Pacific Railroad	\$12,402
Esquimalt & Nanaimo Railway Company	1,350

The other taxes are all derived through the assessment and taxing machinery of the districts.

The following statement of the taxes levied upon the different railroads of British Columbia for the current year is furnished by Mr. John B. McKilligan, Provincial Surveyor of Taxes and Inspector of Revenue.

"Statement showing the Assessed Taxes payable by Railway Companies to the Province of British Columbia for the year 1905, upon mileage basis under the Railway Assessment Act."

Name of Company.	Miles.	Assessed values.	Tax at 1 %.
		\$	\$ c.
Canadian Pacific Railway, main line.....	647.37	6,473,700	64,737 00
do sidings	71.34	215,520	2,155 20
Esquimalt and Nanaimo Railway, main.....	63.08	630,800	6,308 00
do sidings.....	4.92	14,760	147 60
Victoria and Sydney Railway, main.....	15.05	150,500	1,505 00
do sidings.....	0.38	1,140	11 40
White Pass and Yukon Railway, main.....	32.22	322,200	3,222 00
do sidings.....	4.49	13,470	134 00
Red Mountain Railway, main.....	9.59	95,900	959 70
do sidings.....	3.89	11,670	116 70
Nelson and Fort Sheppard Railway, main.....	55.42	554,200	5,542 00
do sidings	3.18	9,540	95 40
Bedlington and Nelson Railway, main.....	15.30	153,000	1,530 00
do sidings	1.28	3,840	38 40
Kaslo and Slocan Railway, main.....	29.44	294,400	2,944 00
do sidings	1.54	4,620	46 20
Crows Nest Southern Railway, main.....	43.38	433,800	4,338 00
do sidings.....	6.64	19,920	199 20
Vancouver, Victoria and Eastern Railway, main.....	17.49	174,900	1,749 00
do do sidings....	2.90	8,700	87 00
Vancouver West and Yukon, main	1.04	10,400	104 00
do sidings .....	.04	120	1 20
Morrisey, Fernie and Michel, main	5.06	50,600	506 00
Grand Forks and Kettle River Valley, main	3.51	35,100	351 00
do do sidings .....	.75	2,250	22 50
Lenora and Mount Sicker, main	2.00	20,000	200 00
		9,705,050	97,050 50
Less discount at 10 % if paid by 30th June.....			9,705 05
Net tax			87,345 45

"The Statement given does not include the total mileage within the Province, as some railways are exempt from taxation for a period of years

in terms of Statute. Some portion of the mileage is wholly within municipalities created prior to 21st February, 1895, and this mileage is not assessable by the Province.

"Railway Companies, in addition to this mileage tax, pay the taxes on all their subsidy lands, and upon any other lands not included in the mileage basis."

NORTHWEST TERRITORIES.

In the Northwest Territories there is no system of railway taxation for the support of the central government, but only for municipal and school purposes. Under a late decision of the court, however, any such taxation of the property of the Canadian Pacific Railway is held to be illegal, and a similar exemption will probably be claimed by other lines and branches of the C.P.R., should the decision be upheld on appeal to the Privy Council.

The whole question turns upon the following clause in the Dominion Act of 1881, authorising the granting of the charter to the Canadian Pacific Railway Company, and specifying and confirming the contract between the Government and the Company :

"The Canadian Pacific Railway, and all stations and station grounds, workshops, buildings, yards and other property, rolling stock and appurtenances required and used for the construction and working thereof, and the capital stock of the company, shall be forever free from taxation by the Dominion or by any Province hereafter to be established, or by any municipal corporation therein; and the lands of the company, in the Northwest Territories, until they are either sold or occupied, shall also be free from such taxation for twenty years after the grant thereof from the Crown."¹⁵³

Nevertheless, after the establishment of the territorial government, the development of the local needs of the country, and the building of new lines of railway, several of them more or less intimately connected with the C.P.R., it was determined to assess them for the support of municipal institutions and schools. The special ordinance at present in force, providing for the assessment of railways, enacts as follows: "Every railway company whose railway is not exempt from taxation shall annually transmit on or before the first day of February to the Secretary-Treasurer of every municipality and to the Secretary or other officer of every public school district through which the company's railway may run a statement to be signed by some authorised official of the company, showing (1) the quantity of land other than the roadway owned or occupied by the company which is liable to assessment; (2) the quantity of land occupied by the roadway.

"Whether such statement is placed in the hands of the assessor of any such municipality or school district or not, the assessor of every municipality or school district as the case may be shall assess the lands of such railway company and the roadway thereof and the superstructure of such roadway and give such notice as is required by section 2 thereof.

"Provided that the roadway and superstructure thereon shall not be assessed at a greater value than one thousand dollars per mile.

"Such taxes shall be payable to the municipality or school district, as the case may be, making such assessment and shall be collectable in the same manner as other taxes."¹⁵⁴

However, as we have seen, this ordinance is at present practically a dead letter, as far at least as the Canadian Pacific Railway is concerned.

¹⁵³44 Vict., Chap. I, sec. 16.

¹⁵⁴ Consolidated Ordinances, 1898, c. 71.

According to Mr. J. A. Reid, Clerk of the Council of the Northwest Territory; "Up to the present the position has not been felt acutely, but the establishment of the proposed Provinces of Alberta and Saskatchewan will place the whole subject upon a different footing at an approximately early date, in which event it will be necessary to subject the Canadian Pacific Railway exemption clause to a critical examination, so as to ascertain whether or not every possible manner in which the company can be called upon to contribute towards the revenues of the Provinces has been sufficiently safe-guarded by the letter of the law."

Obviously the object of the taxation clause in the Act of 1881 was to prevent the C. P. R. from being taxed upon its extensive real estate or capital stock, before there was any income to enable the company to pay taxes.

A clause continuing the taxation exemption of the Canadian Pacific Railway, has been introduced into each of the acts establishing the two new Provinces between Manitoba and British Columbia. Nevertheless, it is very questionable as to whether the Dominion Parliament has any power to curtail the sovereign rights of any Province, new or old, as regards matters which are declared by the British North America Act to come within the sphere of provincial rights. But the right of direct taxation is expressly granted to the Provinces.

The Dominion Government was undoubtedly quite within its rights in granting the C.P.R. exemption from taxation within the Territories, so long as they remained under its jurisdiction. But if such an exemption can continue beyond provincial control after the Provinces are established, then there is no provincial right granted by the British North America Act which could not be taken away by the Dominion Government either before or at the time of erecting any new Province within the general territories of the Dominion.

Doubtless this important fiscal and constitutional question will be settled before long by an appeal to the Privy Council; unless, indeed, in the meantime, the Dominion Government should arrange with the C.P.R. for the abolition of its exemption from provincial taxation.

VIEWS OF VARIOUS AUTHORITIES ON RAILROAD TAXATION.

The views of a number of persons connected with railroads or finance, have already been given, in connection with the tax systems of various states or groups of states, east or west. In this section is presented the general views of various persons in the United States, whose practical experience or special studies have rendered their opinions on the subject of railroad taxation of special value.

Professor E. R. A. Seligman. A very interesting and important statement on the taxation of transportation companies was made before the United States Industrial Commission, by Professor E. R. A. Seligman, of Columbia University, whose works on taxation are among the most important contributions on the subject in the United States.

He deals particularly with the question, as important for Canada as for the United States, of the separation of Federal, State and local sources of taxation. Professor Seligman's contribution is as follows:

"There are several points of view from which the problem may be approached. There is, in the first place, the general question of revenue—what amount of revenue can we or ought we to get from transportation and other corporations; and, secondly, there is the point of view as to justice between the various individuals who are interested in the corporations—justice with reference to the burdens imposed upon them; and these, you

see, are two different problems. Then there is another class of problems, namely: What ought to be the Federal system of taxation, if any; and what ought to be the State system; and how ought they to be dovetailed into each other?

"Before going into the matter with more detail, it is perhaps unnecessary to advert to the immense importance of corporate taxation in modern times. As we all know, the wealth of the nineteenth century consists, far more largely than in past times, of what is known as personalty. The influence of land is comparatively less than in former times. Of this personalty, this personal property, by far the largest part in modern industrial conditions consists of corporate securities or investments in corporate securities, stocks and bonds, whether of transportation companies or others. And it is for this reason that the whole problem of corporate taxation, or the taxation of corporations, assumes so vast a significance as compared with former times, even with the beginning of the century, and certainly with former centuries. The problem of just taxation, therefore, is very largely in modern America, and to a less extent in almost every modern community, the problem of corporation taxation.

"When we look at the question from the point of view of the Federal Government there are one or two principles that I think ought to be laid down at the very beginning, and that is, that there ought to be, as far as possible, a divorce, so far as the sources of revenue are concerned, between the Federal and the State governments. If there is any one principle which has been firmly implanted in our modern fiscal system it is that the National Government should not vie with, should not compete with, the Commonwealth Governments in seeking sources of taxation; and for that reason, of course, the Federal Government has very largely depended upon the so-called indirect taxes, customs duties and internal revenue, and only in very exceptional cases has resorted to a system of taxes which—whether you would call them direct or indirect is unimportant here—have been assessed upon those subjects of taxation commonly reached by the State. It is only under the stress of war, the war of 1812 and the civil war, that there has been any conflict as regards that point.

"Now, that being the general principle, I think it follows also that from the point of view of pure revenue the Federal Government ought not directly to tax transportation corporations. Why does that follow? Because if you look carefully at the progress in the reform of State taxation you will find that the one goal, the first step to be accomplished in the States, is the divorce between State revenues and local revenues, and we find in all our leading Commonwealths, like New York, Pennsylvania, Massachusetts, etc., where you have the fullest and most developed industrial conditions, a well-marked tendency to derive State revenues in ever-increasing proportions from inheritances and corporations, with possibly a few other additions, gradually relegating the general property tax as such to the local divisions.

"Into this general reform the Federal Government has brought a jarring, a discordant element, because not only does it now levy a separate tax upon inheritances, which diminishes pro tanto the chances of the States to develop that system, but also, if the Federal Government were to tax interstate commerce through transportation companies for the purpose of independent revenue, it would most seriously and still further hamper the efforts of the separate Commonwealths to secure just taxation.

"I therefore lay down, as a general principle, that there ought to be no Federal tax on transportation companies for purposes of pure revenue.

"That, however, does not by any means settle the problem as to whether there ought or ought not to be a Federal tax on transportation companies, possibly for other reasons, and that brings me therefore now to the second part of the inquiry. What is the tendency in the several States with reference to the taxation of transportation and other corporations, and how can the evils which at present exist, and which seem almost insurmountable, be averted?

"The chief difficulty in our Commonwealth taxation of corporations arises out of the problems of what is called double taxation. They arise, in other words, from the legal fact or fiction, whichever you may call it, that there is for all purposes and to all intents absolute State sovereignty in each Commonwealth. In the legal system, for purposes of taxation at all events, it is a fact, not a fiction, that each Commonwealth has sovereign powers. Now, what are the difficulties that arise from that legal fact, when confronted by the economic fact that economic interests are not confined to any one Commonwealth, but that the economic interests of the community are scattered throughout the country and are intertwined with all the Commonwealths, that, for instance, with the growth of industry we have corporations which may be situated legally in one State, which may have their actual property in another State, and which yet may be owned, so far as stockholders and bondholders are concerned, in a third State? Here, for example, is a North Dakota railway, or a railway which runs through North Dakota, whose chief officers and legal representatives may possibly be in Illinois and whose stocks and bonds are owned in New York, which is not at all a preposterous supposition. In other words, we have, under the stress of economic development of the nineteenth century, an incongruity between economic conditions and legal facts; legally we still have the system of taxation which grew up when each community was isolated from its fellow community, and this legal situation is no longer in conformity with economic facts.

"Now what are the difficulties which arise from this curious situation? I may add, of course, that this condition of affairs is not in the least peculiar to the United States, but is found in all modern federal governments. It is found in Germany; it is found in Switzerland; it is found or will be found certainly in Australia under the new form of government; with the exception that nowhere perhaps is the legal idea of State sovereignty so strong as it is in this country.

"Now, the difficulty, so far as taxation is concerned, is that wherever the States attempt to tax transportation companies upon receipts—gross receipts, net receipts, or anything else in accordance with receipts—you at once run up against the rock of interstate commerce. It has been decided in a number of cases in our own various States which attempt to get a State revenue from the gross receipts of corporations that, so far as domestic corporations are concerned, corporations chartered within the State, the State is at perfect liberty to levy a franchise or excise tax, however it may be called, upon the total receipts of the corporation; that is, provided the franchise is measured by the gross receipts, then it is valid. No State is at liberty to levy a tax upon gross receipts so far as those receipts are derived partly from interstate commerce. But through the fiction of the law, of course, where you call it a franchise tax or excise tax, and measure the franchise by the gross receipts, then the tax is upheld. This applies, however, only to domestic corporations. Under economic conditions to-day a large part of all corporations doing business in any State are foreign corporations; they are corporations chartered in some other State, perhaps in New Jersey or West Virginia. Now, under these conditions the courts have repeatedly held, and the Supreme Court of the United States has

laid down as the law of the land, that you cannot levy a franchise tax upon foreign corporations, because, of course, the State does not give a franchise except to its own corporations; a State does not give a franchise to foreign corporations; and therefore a tax of this kind levied upon foreign corporations is a tax not upon franchise but upon business, and being a tax upon business it can not be levied upon the business derived in whole or in part from interstate commerce. Therefore we have this situation in this country to-day, in all these States, more especially the more advanced and developed industrial States, and the problem will soon be the same in all the other States of the Union. It is only a question of a few decades when the industrial system will spread throughout the whole country. We have, therefore, this situation—that although the revenue is sought to be obtained from corporations the great mass of corporate business can not be reached by such tax on receipts. Some States, therefore, in order to avoid that difficulty, attempt to solve the problem by taxing corporations not on receipts but upon the valuation, or upon the capital stock, and in some cases also the bonded indebtedness. A great many of our States tax the capital stock of corporations; some, like Pennsylvania, add to the tax on capital stock a tax on bonded indebtedness.

“What are the results of this conflict between legal and economic conditions in this class of cases? So far as capital stock and bonded indebtedness is concerned, it is clear at once that a difficulty arises from the fact that the capital stock may be owned or the bonds may be owned by people who are not residents of the State. The capital stock of the Pennsylvania Railway may be owned entirely or in a very large part in New York or in Chicago, or vice versa.

“What is the legal situation as regards the taxation of corporations under this, the most general form of taxation of corporations? So far as the taxation of capital stock is concerned, the courts of this country have finally reached the conclusion that it makes no difference where the stockholders live, because the tax is assessed, not upon the stockholders, but upon the capital stock. The situation would seem to be free from difficulty there, but it is not, because as soon as you levy a tax on capital stock the question arises. Upon what part of the capital stock are you going to levy the tax? Here is the Western Union Telegraph Company, which ramifies through, perhaps, every State of this Union. If you levied a tax upon the entire capital stock of the Western Union Corporation the Western Union Telegraph Company would be taxed fifty times; instead of being taxed once it would be taxed by each of the fifty States upon the whole of its capital stock, which, of course, would result in the company's going out of existence. Therefore, it is easily seen that where you have a tax on capital stock, in order to realize justice you must tax only a part of the capital stock. The question then arises: What is the economically defensible part of the capital stock that is taxable in each State?

“I do not wish to answer that question now, but simply to raise it and point out the difficulty and state the problem, showing that even though you tax the capital stock you have not got over the difficulties of double taxation and the question of the diversity between economic conditions and legal facts.

“What, however, is the situation with reference to the bonded indebtedness of railways? The most advanced States, as all scientists, have come to the conclusion that to tax corporations simply upon capital stock is manifestly unfair. You may have two corporations, each with \$100,000 working capital; one corporation may have no bonded indebtedness at all, and the other corporation may have bonds outstanding of \$200,000, double the amount of capital stock, and the second corporation may have raised

its entire working capital, in the economic sense, by selling its bonds and giving away its stock as a bonus. If, therefore, you tax only the capital stock, you would be taxing the first corporation three times as much as the second corporation; because in the second case, where you have a total amount of \$300,000—\$200,000 bonds and \$100,000 stock—you are taxing the corporation only upon one-third of its actual capital, while in the case of the first corporation you are taxing it upon 100 per cent. And therefore it is that all statesmen who have looked into the question, and a good many of our States that attempt to realize justice in taxation, now say that corporations must be taxed upon stocks and bonds or upon a valuation equivalent to stock plus bonds.

"Now, what is the legal difficulty there? The court of the United States, in the foreign-held bond cases, has decided that a tax upon the bonds of a foreign corporation is a tax upon its bondholders; and consequently, since a State has sovereignty only within its own borders, no State can reach the bonds of a corporation which are held outside of that State. There at once you see the deathblow given by a legal decision which, in my humble opinion, is totally incorrect from the economic point of view, though entirely defensible from the constitutional point of view. You have a deathblow given to the whole system of taxation, because if you can tax railway bonds so far as they are owned within the State, it will not be very long before you will have no bonds at all to tax within that State, and, as a matter of fact, you would have the same difficulties you had in the other case.

"I might go on and describe other forms—although these that I have mentioned are the most important—other forms of corporate taxation in this country, to show you that in each case we run up against these legal and constitutional conditions which are not in harmony with our economic conditions. It may be laid down, of course, as a general rule that in the long run, crystalized justice is nothing but the outcome of social conditions. The law is simply the legal statement of the economic and social conditions of a country; and the legal system always follows the economic conditions. The economic conditions come first and the legal conditions are gradually changed so as to be in conformity with the economic conditions.

"Now all that I have tried to point out is that we have certain economic conditions which are out of joint with our legal conditions, and that before very long we are bound to change our law so as to conform with our economic conditions; because, of course, we cannot change economic conditions to conform to the law.

"The question, therefore, arises, in view of the chaos in our state and local systems of taxation, to which are largely due these problems of double taxation; what is the remedy? There are only two general lines on which an advance can be made. The one is to attempt to secure a uniformity of State action, if possible, through Federal pressure. I consider that one of the chief functions of this Commission, not alone with reference to the taxation problem, but also with almost every other one of the problems with which you have to deal. That is to say, I consider that a great many of our existing evils in this country arise from the diversity, complexity and opposition between our State laws, and that as long as we have our present political system, which very wisely prevents the absolute centralization of all economic powers in the Federal government, we must try to get at the problem through a gradual unification or uniformity of State laws by pressure from above. That, applied to the problem in hand, means an attempt to do with the taxation problem what we are beginning to do

with the railway problem, having annual conventions of our labour commissions, our railway commissions, etc. There ought to be annual conventions of State tax commissions, where these problems might be discussed not from the narrow point of view of State sovereignty, but from the real economic point of view of the wider economic interests of the country; and those meetings ought to be held under Federal auspices, safeguarding, of course, the interests of the Commonwealths and preventing any friction or jealousy. In that way a great deal of good could be accomplished.

"If, however, that is an ideal still too remote for any practical purposes, there is one other way in which a reform of taxation in this country can be accomplished, through the intervention of Federal authority. I stated some time ago that I considered it highly inadvisable for a Federal government to levy a Federal tax on transportation or other companies for purposes of revenue. It is a question, however, whether we ought not—whether we may or not constitutionally—whether we ought not to follow the same principle that some of our State governments follow when dealing with the complications between State revenue and local revenue. In order to get around the difficulties of double taxation between counties, municipalities, etc., they levy a State tax on corporations or other subjects, and then turn back the revenue under a well-considered general system to the localities, thus avoiding the difficulties and the friction of which I speak. The question, therefore, arises: Can the Federal government exercise its powers of taxation by levying the tax at all events upon corporations engaged in interstate commerce, and then turn the proceeds over, according to well considered and carefully devised rules, to the various Commonwealths, in order to help along the various Commonwealths in their struggle to adjust and reform State taxation itself.

"This is the system that is pursued by other national governments. England, for instance, pursues the system in various kinds of taxes. In inheritance taxes they collect that revenue under well-settled rules and then turn over a part of the revenue to localities. So other European governments do the same thing; and we in our own country have the precedent of course of the governments collecting money and then turning it over to the States—a distribution of the surplus revenue, which, of course, was not very happy as a political measure, because it was not framed on any economic line at all, but it seems that the government has the constitutional power of getting revenue and then distributing it as it chooses.

"That, therefore, would be the line of thought on which I think a consideration of the reform of taxation ought to proceed in this country. To recapitulate what has been said, to sum it up so as to state it clearly, I will just say this, that our whole system of State and local taxation is a chaos, almost worse than a chaos, in the most advanced industrial States. It is not so, of course, in the agricultural States or in the Southern States, or even in part of the west, where the old general property tax is still suitable, because the economic conditions are not the modern conditions, but the economic conditions which were true of the north and east years and years ago; but wherever we have modern industrial conditions the old general property tax is no longer defensible. We are trying to get rid of it, and our advanced States are getting rid of it. There is even now a great commission sitting in New York city which—I may be permitted to say without divulging any secrets—will bring in a bill before long to reform the whole system of taxation in New York State, and it is proceeding along these general lines, although I am not now at liberty to state exactly what the recommendations will be.

"Now, what is true of New York will be true of all the other States in the Union soon. Everyone agrees that in order to bring about this reform we must have a divorce of State and local revenue. Everyone agrees that if you are going to have a separate State revenue you must have it primarily from inheritances and corporations. Everyone agrees that if you have it from corporations you cannot have a just system under the present conflict between legal facts and economic conditions. Ergo, I say, the conclusion is that we must so change the legal facts as to bring them into harmony with economic conditions. That can be done finally in only one of two ways, either by voluntary co-operation on the part of our State authorities, voluntary and possibly with pressure from above; or, secondly, through a certain separate or independent intervention by the Federal Government itself. Therefore, it seems to me that this problem, which at first blush seems to affect possibly only the Federal Government, is of very much wider importance because it affects not only the whole question of State and local taxation, and not only affects the question of just taxation of corporations themselves, but necessarily affects the whole system of taxation apart from that of corporations, because as soon as you solve the problem of taxation of corporations properly you are in a position where you can attack the other and perhaps more complicated problems of taxation of property." ¹⁵⁵

Professor H. C. Adams. A very different and in most respects opposite view from that of Professor Seligman, as to the direction which railroad taxation is taking and ought to take, is reached by Professor H. C. Adams of Michigan University. Professor Adams' relation to the Michigan system of taxation has been dealt with under the section of this Report treating of that State. The latest and most developed expression of his views is contained in a paper read before the American Economic Association in Chicago on December 30th, 1904. The greater part of the paper is here given, as published in *Public Policy* for Jan: 28th, 1905.*

"In searching for the trend of railway taxation, it would be an error to assume the existence of a separate and independent system of corporate taxes. This assumption has been frequently made by writers upon American finance, but in so doing they fail to distinguish between the underlying principles of a system of taxation, on the one hand, and the machinery for administering that system, on the other. So far as methods for assessment and collection are concerned, it is true that railway corporations are placed in a class by themselves, but it is not true, speaking generally, that the theory of public contributions applied to them differs from the theory which is applied to other classes of property. That system of taxation, known as the general property tax, is as strong to-day as it ever was in the history of our country; indeed it is stronger, if we are to judge from the changes that have taken place in the laws of the States during the past twelve years.

"A glance at the laws of railway taxation in the several States and territories gives ample support to the claim that these laws fail to introduce any new principle into the established system of local taxation. Including the District of Columbia, and excluding Alaska from the list, local government in the United States is represented by fifty States and territories. Of this number only two, Rhode Island and the District of Columbia make no distinction in the matter of taxation between railway property and other property. That is to say, these political divisions fail

¹⁵⁵ Report of the Industrial Commission of 1900, Vol. IV, pp. 599-603.

* Since published in Papers and Proceedings of Seventeenth Annual Meeting of the American Economic Association, Part II, 1905.

to provide special methods even for the assessment and collection of railway taxes.

"There next comes a list of thirty-nine states which make the general property of railways, including both personality and realty, the basis of taxation, but which provide machinery for assessment of railway property different from that employed in the assessment of general property. The character of this administrative machinery is of no importance as bearing upon the question under consideration. Nor does the fact that some of these states make an assignment of railway assessments to the minor civil divisions through which the railway runs, while others distribute the money collected, and still others keep this money for state expenditures, bear upon the problem in hand. The important fact is that the system of local taxation in these thirty-nine states expect railway property to pay for the support of government an amount in proportion to the value of the property, the same as in the case of general property. These thirty-nine states, like the two already mentioned, making forty-one in all, are properly included within the jurisdiction of the general property tax.

"There are five states, Delaware, Massachusetts, New York, Pennsylvania and Kentucky, which tax railway property according to its value, but assess the tax to the value of stocks and bonds rather than to the value of real and personal property. In all cases, with the exception of Connecticut, this tax upon stocks and bonds is supplemented by other forms of taxation. It is the *ad valorem* and not the specific tax that gives character to their taxing systems. It thus appears that forty-seven out of the fifty-states and territories aim to tax railways in proportion to their value. The remaining states, Maine, Maryland, and Minnesota, have adopted a system of specific taxes, making gross earnings the measure of the duty of railways to pay for the support of government. Two states, Vermont and South Dakota, give the railways the choice between paying upon *ad valorem* or a specific basis. The states of Ohio and Texas also tax railways upon the basis of gross earnings, but make this as a supplementary or additional contribution. Five states adopt the essentially pernicious method of supporting their railroad commission by means of a special tax on earnings. Other minor differences might be mentioned, but they would not affect the conclusion that, with the exception of Maine, Maryland and Minnesota, railways are taxed according to the value of their property, and that both common law provisions and constitutional rules relative to equity and justice in taxation require that they pay a rate equal to the rate of other property upon their cash or par assessment.

"The courts have taken one step which may prove to be a point of departure for the development of new principles in the taxation of railway corporations. I refer to their recognition of a franchise value. It is not necessary to go into the details of these cases nor to discuss the propriety of the rule accepted for the measurement of franchise values. The significant point is that the courts have taken judicial cognizance of a value in excess of what may be termed the inventory value or the value of the physical properties. This being the case, the question at once arises as to the source of this excess or surplus value, as also its social and industrial quality, and, should an analysis of this value prove it to be in any way peculiar, the further question arises, whether the principles of equity and justice, which are acknowledged to lie at the basis of taxation, may not require the taxation of this value in a peculiar manner. To answer this question calls for an analysis of what for convenience may be termed the

surplus value inherent in the property of a prosperous railway, and it is to this analysis that I now invite your attention.

"1. This value covers, in the first place, the value of the franchise, that is to say, the value of the right to be and to act as a corporation. An assertion of a franchise value as a distinct form of value, however, is submitted as a concession to legal lore rather than because it is believed to be of very much importance. It is undoubtedly true that a franchise carried with it an independent value when the right to be and to act as a corporation was an exclusive privilege. At present, however, general corporation laws have destroyed whatever value pertained to a franchise on account of its exclusive character. If there be surplus value, it must be found in the nature of the industry in question, or in the relation which that industry bears to the principle of competition, and not in the fact that a particular body of men are at liberty to exist as a corporation. The surplus value which we are now endeavoring to explain is something more than the formal value of the franchise.

2. Holding in mind the business of transportation by rail, this value includes, in the second place, the possession of traffic not exposed to competition, as, for example, local traffic. There are, of course, commercial limitations to the value accruing to a railway corporation from this source. For example, the rates from non-competitive business are more or less influenced by the rates for competitive business. The curtailment of demand through excessive charges, also, as well as all those considerations which find expression in the law of monopoly prices, act as commercial restraints in the adjustment of local railway tariffs. But, notwithstanding all that may be said in this vein, it yet remains true that commercial considerations offer no guarantee of just and reasonable rates when judged by ordinary business standards; and the margin of surplus earnings thus rendered possible becomes the basis of a surplus value, that is to say, a value in excess of the inventory value of physical elements.

3. The non-physical value of the railway includes, further, the value which arises from the possession of traffic held by established connections. The fortunes that have been made in the railway business during the past fifty years have resulted largely from the organization of independent companies into great railway systems. The important point for this analysis however, is that the amalgamation of connecting lines, as well as the consolidation of competing lines, gives to each member of the operating system thus created a class of traffic which it might not otherwise be able to hold, and consequently confers upon each member of the system a value which it might not otherwise possess; and when it is remembered that the rates at which this traffic is moved are not exposed to the competition which would exist were it not for the organization of railway properties into systems, it is evident that this element of value is likely to be of considerable importance. From the point of view of the influence of competition upon the earnings of railway corporations, the difference between the so-called competitive and non-competitive traffic is less than is commonly supposed. whether traffic be local or through, competition is no guarantee that it will be carried for what it costs to render the service.

"4. The intangible value includes, in the fourth place, the benefit of economics made possible by the increased density of traffic. This statement rests upon what is universally recognized as the fundamental business principle of railway transportation. It means that the growth of population and the consequent increase of traffic which results from the growth

forces a value into the treasuries of railway corporations which cannot be credited to the superior ability of those by whom railways are administered. Were this business exposed to the influence of competition, the value in question would be dissipated to the public through a reduction in the price of service. For many reasons, however, this is not possible in the case of the business of transportation and the value resulting from economies rendered possible by the increase in traffic, comes into the possession of the corporation rendering the service.

"5. Lastly, the intangible value of a railway corporation includes a value arising on account of the organization and vitality of the industry which renders the service. This value, consequently, is in the nature of an unearned increment to the corporation. It may be said that all industries are interdependent, and that every business depends for its prosperity upon the prosperity of those who are its customers. This is undoubtedly true, but it is equally true that, unless all industries are equally exposed to competition, or upon the same basis so far as concerns their ability, to avail themselves of the advantages of monopoly, some will be able to maintain while others will be forced to give up the value that accrues on account of the widespread development of industrial technique. The significance of this observation in the analysis of surplus value becomes evident when it is conceded as an answer to the claim that the railways have created the wealth of the world and that their compensation cannot, therefore, be too highly appraised. It is a mistaken analysis that overlooks the close interdependence of all the agents of industrial prosperity.

"If the above analysis of the origin and nature of surplus value, as it appears in the case of a prosperous railway corporation, be correct, it is evident that this value exists because it fails to be diffused to the public through the agency of commercial competition. Were competition able to keep the price of the service of transportation in the case of each and every railway down to the cost of the service rendered, or were it good policy for the government to define a reasonable rate as a rate which coincides with the cost of service, including normal profit, no such value as that under consideration could exist. The capitalization of railways, and, consequently, the assessment of railway property for the purpose of taxation, would tend to be the cost of reproducing the plant, as in the case of manufacturing properties, whose balance sheets are continuously exposed to the adjustments of competition. This means that the surplus value of a railway corporation is monopolistic in its origin in the same sense, though not for the same reason, that the capitalization of the rental value of real estate is monopolistic. It is a value contributed by the public to the corporation because of the imperative character of the public demand for transportation. It results from the fact that increased density of traffic due to the increase in population and to the development of general commercial activities, provides the railways with an ever increasing opportunity of availing themselves of the productive principle which lies in organization. The relative amount of this surplus value, which should be credited to railway managers on the one hand, for availing themselves of the opportunities of increased economies, and to the public, whose industrial activities furnish these ever broadening opportunities, is not here in question.

"The important fact is this, that a portion of the surplus value now enjoyed by railway corporations is a direct contribution from the public, and that competition is incapable of diffusing this value through a reduc-

tion of the price of the service. It is a socially produced value and the logical application of the principle which lies at the bottom of the institution of private property, namely, that he who produces a thing should be its proprietor, will lead to the conclusion that the public is a joint proprietor with the railway corporations in the property which they control. This at least is the question which, as it appears to me, the attempt to secure a just system of taxation as between railway property and other property will force upon the consideration of the courts, and, should the courts acknowledge the accuracy of the analysis here suggested, and extend their definition of property to include a quasi-public property as they now acknowledge a quasi-public industry, a radical modification of the system of taxation becomes imperative. The situation disclosed by this analysis is one for which the theory of the general property tax makes no provision. That theory assumes value to be homogeneous, whereas the foregoing analysis makes it clear that this is not true. The tendency in railway taxation of which this paper speaks is not to be found in the statutes, but in the necessities of the situation. If my analysis be correct, it follows without question that the underlying principle of the financial system of the future will be the recognition of a joint proprietorship between the public and the corporations in all cases where surplus value proves to be a permanent feature. This, of course, assumes that a socialistic programme will not be realized."

Mr. Wm. W. Baldwin. The theory of taxation advocated by Professor Adams was criticized by Mr. William W. Baldwin, Assistant to the President of the Chicago, Burlington and Quincy Railway, in a paper also read before the American Economic Association, on the same occasion. The paper contained a special criticism of the Michigan system of railroad taxation. This portion of the paper is here omitted, as the views of Mr. Baldwin on the Michigan and other western systems have been given elsewhere. That portion of the paper which deals with the general question of railroad taxation, and more particularly with Professor Adams' theory, is as follows: Also from *Public Policy*, Jan. 28, 1905.*

"It is claimed by many to be the law that investments in railroads are no longer to be regarded as private property for the purposes of profit.

"The merchant, the manufacturer, the banker, the farmer, the miller, the ship owner may derive whatever profit he can from the lawful use of his property and talents, taking the risk of loss; but it is said that the investor in a steam railroad is limited to what is called a fair return upon the value of the property used, which, being calculated, is held to mean a return based upon the lowest generally prevailing rates of interest, and without guaranty of any return, and, notwithstanding, he takes the risk of loss, and often loses. If returns show a larger profit, demand is frequently made that the state reduce the rates, that is, the price a railroad may charge for the service rendered; and, the property being held to be public property, because employed in the business of carrying for the public, the state does reduce the rates.

"Now, this status of railroad, property, this limitation by law of its earning capacity, should, it seems to me, be taken into consideration by economists in framing laws for its taxation, especially if such laws have a social object. Professor Seligman says that taxation may be utilized for social purposes, and speaks of socialists, extreme socialists, he calls them, represented in academic circles in this country, who maintain that the social problem is the great problem, and that a tax is not a tax, unless it

* Since published in Papers and Proceedings of Seventeenth Annual Meeting of the American Economic Association, Part II, 1905.

has a social object as distinguished from a fiscal object. In a sense, of course, all taxes are collected for social objects, but in this connection is meant the distinctly socialistic purpose of appropriating, through taxation, as distinguished from the exaction of an equal contribution in proportion to value to meet the fiscal needs of the state.

"Are we entering upon a period of such social taxation, or appropriation of railroad property? Are we to have a system of tax laws applicable to railroads only, and based upon the view that this one class of property in this country has no moral right to earn more than a specified rate of interest or return upon its cost, without guaranty of any return, and that if a railroad shows a surplus, beyond the specified rate, such surplus may be, and ought to be, reached through the taxing power

"Treating railroads as quasi-public property, and restricting their right to surplus earnings through reduction of rates, is subject to the powerful limitation which the courts have inserted, that they shall be permitted to earn some return upon the investment. But no such limitation will, it seems, be written, even by the courts, into a tax law. The taxing power is practically without limit. The power to tax is the power to destroy. Does the suggestion not appeal to economists who are not socialists, that it is going a step too far to devise taxation as a means of reaching surplus, exclusively for this form of property, now so largely held for investment? It is true that during the past five-year period railroads have been prosperous, but not more so than many other lines of business; and in the previous five-year period they saw much of adversity, and entire investments were wiped out, which fact cannot and will not be taken account of in fixing the rate they should now be permitted to earn. Those who are familiar with the subject of railroad taxation know the practical impossibility of reducing the tax, in the face of public opinion, whatever depressions in business may be experienced; hence the greater care should be exercised in adopting a policy intended to reach present surplus railroad income through taxation.

"That taxes, the means of supporting the government, should be levied with equality, and their burden rest uniformly upon all subjects on which they are laid, is a correct principle in economics, as well as imbedded in the constitutions of the states. Over and again courts have said that "a sound tax law must equally distribute its burden among the citizens according to their property."

"What reasons then are urged for applying exclusively to railroad property a tax system, based upon reaching their surplus earnings, after allowing a rate of return upon property deemed to be socially or ethically sufficient, while no attempt is made to reach the surplus of other citizens and their property by similar methods?

"In prosperous times, many, if not most, lines of business show surplus income. What economic reasons are given for applying these methods to railroads only?

"It is said that the railroad is a peculiar property, and the peculiarity is that commercial forces fail to dissipate its surplus earnings; which is only another way of saying that its surplus is more permanent or more to be depended upon than is seen in other industries.

"Also, that because the state requires complete reports from railroad companies, the amount of their surplus is more easy of ascertainment.

"The first reason does not appear to be borne out by experience. The profits of railroads seem to fluctuate with good and bad times and conditions, as much as do those of other industries, as a class; and their surplus is as

quickly dissipated by the blasts of adversity. The average net earnings per mile of the Burlington road for the four years, prior to the year 1887 were \$3,420, while the average for the succeeding four years were \$1,618 per mile, one of the consequences of the enactment of the Inter-State Commerce law, and of a strike of locomotive engineers, which may occur to any railroad. At the mercy of the Legislature and the commission in the matter of rates, and of the labor union in the matter of wages, no class of property, it seems, must fight harder to prevent the dissipation of its earnings than that owned by railroad companies.

"Another answer is, that if the railroad industry is to be, in effect, subjected to an income tax, some endeavor should at least be made to apply similar methods to other industries; and then, whether their income proves to be temporary or permanent in character the test will be the same. Regarding the matter of reports, the answer is, get the reports; require other industries, as well as railroads, to furnish them; make some honest effort to lay the income tax upon other industries.

"Another reason is based upon an assumption that really goes to the root of the whole matter, namely, that other industries and property are, in effect, taxed in proportion to income, through assessments of value, fixed from frequency of sales, while, in the case of railroads, no such sales can guide the assessor, and, therefore, a method of assessment through income must be devised.

"The assumption is not founded upon fact. Other property is not taxed in proportion to income through the sales test; it is not assessed at its value by any test.

"The State Board of Assessors of Michigan announced their finding, that the true value of the general property in that state for the year 1902 was \$1,715,000,000. The assessment, in fact, of the same property for the same year was \$1,418,251,858, a difference of more than twenty per cent. There is hardly a doubt that, if the investigation of the State Board of Assessors had been thorough, and especially if the assessments upon the general property had been levied upon any basis of income, the disparity would have reached fifty per cent.

"But notwithstanding the apparent lack of adequate reasons, there is now in operation in the State of Michigan, unless the courts forbid, a plan for the taxation of the railroads of that state largely upon the basis of income, which is dependent for its results upon the social view that railroads are entitled to earn only a certain designated amount.

"It is suggested that the Michigan Legislature adopted this so-called *ad valorem* tax law for railroads upon proof that under the gross earnings tax system they were paying less taxes in proportion to the true value of their property than the general property of the state. But this point loses force when it is known that this proof consisted of nothing more or less than theoretical deductions and conclusions of value previously worked out by capitalizing income at certain low percentages, by the very same experts.

"Economists say that the fundamental idea of an *ad valorem* tax law is that it rests upon property, without regard to ownership or the proportion of protection furnished, and without regard to the ability of the owner to pay a uniform rate to be levied upon all property in proportion to its value.

"An income tax on the other hand, rests entirely upon ability to pay, as measured by income. When the income is derived from property, it is taxed regardless of the value of the property itself. Vacant land, how-

ever valuable, produces nothing to the income tax, while property, such as a telephone system, having small value apart from its peculiar use, may show large receipts which an income tax would reach. Governments decide what system the property tax of the income tax, is, on the whole, best suited to their condition and necessities, and it is easily conceivable, may adopt a system combining the two, that is, for taxing the land and all interests in land, and all tangible personalty, according to value, and likewise, taxing all incomes, with adequate provision against double taxation, that is that no property which has paid the *ad valorem* tax shall in addition pay an income tax.

"Such an income tax law would be carefully drawn, and all interests be guarded so as to ensure equality and uniformity between taxpayers. But that is a totally different affair from an income tax administered as an *ad valorem* law, or an *ad valorem* law administered as an income tax. In the first case, income might be determined, not from actual receipts, but from expert calculations of what income ought to be produced from property having a certain estimated value. In the second case, value is determined from income capitalized. Still different is an *ad valorem* law administered with a social purpose, that is, through the selection of a certain class of property, and limiting all property in that class possessing income to a percentage return deemed socially sufficient, and capitalizing such property upon that percentage, while all other property in the class is valued at cost of reproduction in present form, without regard to income.

"But the question of valuation is, after all, only a part of the problem. If, in fact, the rate of tax laid upon the real value of other property in Michigan is ten mills on the dollar, or less, why should railroad property, upon any method or by any system, be required to pay a rate of sixteen and one-half mills? No consideration of the so-called Michigan plan can be adequate which ignores this feature of the case. Economists, apparently, devote themselves to the question of devising theories for securing a complete financial estimate of all the features of a railroad, when the question which might well engage their attention in this connection is, what part of this value shall be subjected to taxation, in placing the tax burdens upon this class of property, the same as it, in fact, rests upon other property, in proportion to value?

"Professor Meyer says that a railroad is worth what it can earn. Professor Seligman thinks that taxation of net receipts is a more equitable system of taxation than any other, and, speaking of the operation of the Ford Bill in New York says that its object is to hit the difference between the value of the tangible property and the total value of the corporation, or the goodwill of the business. Professor Adams' paper read to-day is devoted largely to showing that there exists a peculiar element of value in railway property, that may be reached for taxation by widening the jurisdiction of the general property tax so as to reach this peculiar value, meaning the value of the business as a going concern.

"The Northwestern railway, meanwhile, in the State of Michigan, with no change in its property and no addition to its earnings, finds its tax bill in the first year of this widening of the jurisdiction of the general property tax leaping from \$78,000 to \$234,000 and the proportion of tax to net receipts reaching a modest 105 per cent.

"It will not do to say that economists are not concerned whether railroads are compelled to pay more than an equal share of the taxes of the state, in proportion to the value of their property, compared with all the other property. That is the very question about which they ought to be concerned. The aggregate assessment made by local assessors upon the real

and personal property in the Michigan counties in which the Northwestern road is situated, is below fifty per cent. of the true aggregate of such property, and the rate levied thereon does not exceed ten mills; but the property of the railroad company, in the same counties, is assessed at over one hundred per cent. of full value, and a rate of sixteen and a half mills is levied upon that assessment. No fair-minded economist will justify such inequality. If, in the general assessment, through undervaluations and omissions from assessment, it results that the total valuation of the general property does not exceed thirty or fifty per cent. in value, that fact must have consideration in any logical or just administration of the *ad valorem* system. On the other hand, if income is made the test, a railroad is no more worth what it can earn than other property is worth what it can earn. If income is the most equitable measure of value, then provide an income tax that will reach the income value of all business enterprises alike.

"The law of Michigan provides for the ascertainment of what is denominated the "average rate" of taxation, by dividing the sum of the valuation of the general property of the state into the aggregate tax collected from the general property; and this so-called "average rate is levied upon every railroad wherever located.

"Is it not feasible to ascertain by investigation what is the true aggregate annual income of the general property of the state, and deduce therefrom the proportion of such income which, upon the average, is paid in taxes by the general property, and fix that as the rate which each railroad company shall pay upon its net receipts?

"I am speaking now only of the economic, and not of the legal, aspect of the matter. Under the present system, we can draw from the general property, to compare with railroad property, no test except a local assessment, crude, contradictory, and made by the taxpayers themselves, or by those whom they elect to office, from which is deduced what is called an "average rate," to be levied upon railroads at excessive estimates of value, derived from capitalizing their earnings at low rates.

"Economists can surely devise methods for ascertaining the proportion of earnings paid in taxes by property in general, and applying such rate to the net earnings of railroads, which will produce less inequality and injustice than grows out of such manifest maladministration of the *ad valorem* law.

"If I do not misunderstand Professor Adams, he may not dissent, in principle, from this view of broadening the income tax. Referring to certain manufacturing industries doing business under conditions which may secure to the proprietors a return considered in excess of the normal return, he says:

"The Government retains the right to regulate prices, if need be, so as to extinguish any surplus value.

"He would, doubtless, be willing to add that the Government, in addition to regulating the prices of such manufacturer, may also tax him, if need be, so as to extinguish any surplus value in his property.

"Are economists ready to inaugurate this tax system for such industries? Take for illustration, the banking industry. That capital employed in banking enjoys a much higher return than that invested in railroads, is well known; and it, therefore, must be in excess of the normal. Shall Government employ the taxing power as a means of extinguishing surplus value in the banks?

"It may be of comparatively little moment that owners of railroads protest against the application of these methods to their property, as a class, and to no other property; but it is a matter of importance to us all to know whither we are tending."

Mr. Thos. F. Woodlock. In New York the Ontario Commission had an interview with Mr. Thomas F. Woodlock of the *Wall Street Journal*, author of "The Anatomy of a Railroad Report" and a recognized authority on financial and railroad matters. Mr. Woodlock strongly favoured the system of taxing railroads on their gross earnings, as the fairest practicable method for all parties. His position may be gathered from the following extracts from the interview:—

"Without pretending to be an expert, I have always felt that the safest, fairest and easiest way of taxing railroads was on earnings, either gross or net. Now there are objections to taxing gross, and there are objections to taxing net; in fact there are objections to any scheme you can think of. An advantage in the case of gross earnings is that the auditor of the company makes the assessment, in other words, you cannot charge expenses for wholesale betterments, etc. On the other hand, if you tax gross earnings it may happen that one railroad is compelled to operate at 75 per cent. of expenses, another at 50 per cent., and so on. But on the whole, it seems to me that the gross earnings' system has the preponderance of suitability for this purpose, because the gross earnings are easily ascertained.

As to the distribution between provinces, he said: "The provinces adjoining on the east or west might be getting an undue proportion of the benefits, which they do not help to provide, and, therefore, should not tax. It seems to me that the business originating either way in Ontario, and a fair proportion of the through business, would be the proper gross earnings for the Province of Ontario to base the taxation upon.

"The proportion derived from local and long hauls depends much on the character of the business; the matter evens itself out pretty well. There seems to be a sort of rough justice in it. Of course there are going to be hardships as between provinces. They cannot be avoided.

"The principle of taxing a railroad on gross earnings between certain boundaries comes as near to giving that section its proportion of the average value of all business as you can get. Because where that particular section is extra valuable then you get your local traffic in; where it is not, you get your through traffic. It seems to me, therefore, that this system of valuation is more fair than any way of basing your valuation on road bed, rolling stock, earnings power, etc., etc.

"In the long run gross earnings fix the taxable value. Capital will bring what it will bring. Therefore, if you can get at the income in some way you are getting to the very heart of the thing, and you are eliminating such things as tend to obscure it."

Mr. Woodlock recalled the case of J. J. Hill paying over \$50,000 a mile for the Burlington road, which would not cost over \$30,000 to build; some of it not above \$18,000—yet Hill paid \$50,000 for it and it was a good bargain because he gets the money out of it.

"The great question is as between gross and net earnings. Naturally I would very much prefer the latter, but it is so difficult to draw the line between what is maintenance and what betterments. If you could get a perfectly uniform system of bookkeeping it might be of some use, but you cannot get a uniform system of charging betterments.

"If a railroad will give me their gross earnings correctly, I defy them to do any monkeying with the figures afterwards. The gross earnings are the one thing we can swear to.

As between the lines with heavy and light traffic, he said: "It is true that the tax payable by the poorer line, operating in the rear districts of the country, will be proportionately larger, to some extent, but in point of fact the actual amount of the hardship will be very small.

"I see no objection to a graded tax, because where there are greatly varying conditions you can grade, \$3,000 per mile so much, \$6,000 per mile so much, \$10,000 per mile so much, etc."

As to branch roads, he claimed that these roads were running to feed the main system, and it payed to run them; if not directly yet in indirect benefits.

He gave several illustrations of the impossibility of valuing a road on its cost or capitalization: "The St. Paul Railroad about ten years ago had gross earnings amounting to \$4,900 per mile; they are now \$7,200 per mile, an increase of pretty nearly 50 per cent. The capitaliztion of the St. Paul road ten years ago was, roughly speaking, \$31,000 per mile, and to-day probably \$30,000. The value of the St. Paul road to-day is very different from what it was ten years ago, and yet there is nothing in the St. Paul road in its tracks, perhaps they have substituted 60 lb. rails for 50 in a section or two, a little more paint on their cars, bigger terminals, etc., but nothing like the 50 per cent. increase in value which has come from the earnings. It seems to me that the whole thing is the earnings. Now take the case of the Pennsylvania R. R. In some places they are on their fifth location that is to say in some sections they have four times built a line and thrown it away, so that the present is their fifth location; nevertheless they have only the one line to-day in place of the five built and thrown away. the books show only the one line as property held by the railway, and that is all the property you could tax." ¹⁵⁶

Mr. Hugh L. Bond. At Baltimore the Ontario Commission interviewed Mr. Hugh L. Bond, second Vice-President of the Baltimore and Ohio Railway, who spoke very frankly and interestingly of the various methods of taxation encountered by their railroad, and of what he considered to be the most reasonable system of railroad taxation. As a result of his wide experience he had reached the conviction that the gross earnings system was the fairest for all parties. His views were expressed as follows:—

"It was the early custom in this State to exempt railways from taxation. The Baltimore & Ohio system property in Maryland is exempt from taxation, but of course the Baltimore & Ohio has grown, so that the Maryland part is the smallest part of it. We are not altogether exempt from taxation, that is, we have an agreement by which we pay one per cent. of the gross receipts in the State of Maryland in consideration of certain rights granted by the State, and under which agreement certain things are to be done by the company. In Virginia and West Virginia the original charter exemptions did not extend. The system now extends from New York to Chicago and St. Louis, and consequently we have all sorts of taxation.

"We pay taxes in New York, Pennsylvania, Maryland, District of Columbia, West Virginia, Ohio, Indiana and Illinois, and in no two of those States is the system the same. Relative to other property, I think it is safe to say that probably in all those jurisdictions, in the absence of some contract with the State in regard to taxation, the railroad pays more on its property than an ordinary individual pays on his; of course you would rather expect that. I think this is so as compared with other corporations too, because there are very few corporations whose property is as tangible and easily ascertained as that of a railroad, and in many of the States the manufacturing corporations are treated very leniently because they want them located in the State. For instance, this city exempts the plant of a manufacturing corporation from city tax, and that is not an uncommon thing in other cities.

"Now the fairness of railroad taxation depends a great deal on the fairness of the men who administer the tax laws. There is no self-executing tax law that I know of, except the tax on gross receipts. I think the general feeling among the railroad men is that that, perhaps, is the fairest basis of taxation, because a railroad is valuable only as it earns; the question of how much money there is in it does not really represent its value, for the reason that a great many roads in the nature of things were built ahead of the needs of the country, and it is rather in the interests of the country to have them ahead of their needs if they can get them, but railroad people do not object to paying taxes on gross receipts, because they do not have to pay taxes unless they have something to pay them on. Not that anything really reconciles a tax-payer to paying taxes, but he feels better when he has the money. In this country, however, this question is seriously hampered by the question as to how far a State can tax gross receipts. The Supreme Court decisions are pretty clear that as a general thing the State cannot tax gross receipts on interstate business, and while you find in many of the States that the tax laws do apparently tax the gross receipts on interstate commerce, and you find that the railroads are paying those taxes, it is extremely doubtful whether those taxes are legal. At the same time the railroads pay them because they consider them the fairest form of taxation. That is the general form of taxation for state purposes in this State of Maryland. A railroad organization subject to our general tax laws, would pay local taxes on the basis of an assessment by the local assessing officers, i.e., county and municipal taxes generally, but the State taxes are on the basis of gross receipts, on a sliding percentage of gross receipts per mile. The railroads pay their tax, although the validity of it, while upheld by our Court of Appeal, is really very doubtful, if taken to the Supreme Court.

"In Pennsylvania, with the exception of Philadelphia and Pittsburg, there is no taxation for local purposes. All the taxes go to the State. Now the taxes are of two sorts; first, the tax on bonds held in the State; the other the tax on capital stock. The tax on capital stock is really a tax on the property of the company as assessed by the state officers. Where there is a market for the stock and it is actually traded in and all that, they take that as the main element of proof of the value of the property, but a large part of the railroads in the State have capital stock which is not on the market but is held by a parent company, like the B. & O. In that case they make a personal inspection of the property and make a valuation based on that and on earnings. They have really said if we tax you on the various properties you are really paying on the capital stock, and in a spirit of fairness they have even gone so far as to allow us to deduct or allow for these items.

"Under the law of Pennsylvania you are subject simply to the fairness of the assessing officers. It is perfectly within their power to put one railroad up and another one down, or take any valuation they choose, and it would be next to impossible to attack it in the absence of bad faith, etc. Now in Ohio the method of assessment is a little different. In Pennsylvania it is done by the State officers. In West Virginia it is done by the State Board of Public Works. In Ohio the actual assessment of the property is done by the county auditors meeting together; that is, the auditors of each county in which the particular railroad is located meet together and decide on the total valuation of the railroad. That is subject to review by the Board of Review, composed of State officers, but that practically is only for purposes of equalization. Now, if it is part of an interstate road they are entitled to consider it as a whole and decide on a mileage basis. They, of course, get reports from the railroads. On this assess-

ment that I have spoken of, the local taxes as well as the State taxes are based, but on top of all there is a gross receipts tax of one per cent. which goes only to the State. Now the origin of that gross receipts tax was that in 1896 the State of Ohio was "broke". They did not know how they were going to make both ends meet, and they needed \$200,000 and they came to the railroads and asked them to help them out. To help them out the railroads agreed to pay one half of one per cent. on the gross receipts, not only on local traffic but on all their traffic, although they only did it because they agreed to do it.

"Our experience in Ohio, however, has not been very cheerful, because that tax, which was intended to raise \$300,000 actually, on account of the increase developed into \$600,000, and not only that, but the State officials came down and said they had to have \$600,000 more, so we had to give them one per cent. instead of the half of one per cent.

"The State Board of Indiana adopts an arbitrary system of assessment. It is not a difference in law; merely a difference in assessment. They base their assessment on gross receipts and then they make an arbitrary deduction for operating expenses and they say the difference is net, which ought to be capitalized to find out what the value of the property is. We make a report of the details of the property, but it does not amount to sour apples. The fact is that the only thing they look at is the gross earnings, but if you can show your position to be exceptional and that the basis which they use would be unfair to you, they do reconsider it.

"Their ordinary rule is to take 70 per cent. of the gross earnings as operating expenses and capitalize the remaining 30 per cent. Now that is really arbitrary. There are no two roads which have the same ratio of operating expenses. It depends on the traffic. Now we have no local traffic in Indiana at all; simply on the Chicago through line, and it moves at a very low rate. The only thing that keeps it up is the volume, and there they have modified their rule somewhat, because they know it is impossible that 30 per cent. of those rates should be net. We have to haul in competition with the lakes, and if there is any profit in the through haul we have to take that.

"On the whole, I think the most equitable basis for the taxation of railroads is the gross receipts basis, but you won't find that carried out in almost any State in the Union, because of doubt as to the validity of the system. They use all sorts of subterfuges to protect themselves, even in Minnesota. There is no reason why you should not make a perfectly clear and straight Act in your country, but in this country the State is afraid to do that because litigation which attacks your whole revenue basis is a very serious thing for a State, and you cannot afford to risk it. So they get around it in all sorts of ways, and use it really as a basis through the method of assessment. There are only two ways of doing it. One is to have an assessment by the legislature, which will have in the end to get down to the gross earnings basis; the other is to have an assessment board of officials, which is better from a scientific standpoint, officers whose jurisdiction covers the whole State. They are not always the fairest to the railroads, but it is, generally speaking, fairer and more scientific to have special officers. You will either require to have an assessment by a local board or an assessment by the legislature, which must be made on the basis of gross receipts. It would be, of course, ideal if you could have it on the basis of net receipts, but that takes in so many methods of accounting, and it would not be self-acting. Of course you cannot have any system of taxation which will not work some hardship on someone."¹⁸⁷

¹⁸⁷ Ont. Com. Interviews.

President of N. Y. Central. At New York the Commission had an interview with Mr. W. H. Newman, President of the New York Central Railroad, and Mr. O. G. Getzen-Danner, Tax Agent of that system. While they freely discussed the subject of railroad taxation, they did not wish to have their statements specifically quoted. In substance, however, their views on the leading points were as follows:

In their opinion the railroads, in proportion to other property or business enterprises, were as a rule overtaxed. This they held to be particularly true in the State of Michigan, whose system is unfair to the railroads and precludes all knowledge as to the real proportion which the railroads should pay. The effect of the Michigan system, in the long run, must be to injuriously influence the business of the State by discouraging railroad enterprises in it; and by tending to drive it to other States where the railroads are treated more liberally or more justly.

They considered the system of taxing railroads on their gross receipts as much the most equitable and practical, and thought that three per cent. on gross earnings might be taken as a reasonable rate, other things being equal. Mr. Getzen-Danner thought that there ought to be a graded scale of rates by which the newer or poorer roads would be charged a lower percentage than the more fully developed ones. As to the principle upon which the taxes should be apportioned, between the different States through which the same railroads ran, they considered that system the fairest by which local traffic was considered as belonging wholly to the State in which it was conducted, while through traffic was divided between States on a mileage basis.

If, however, railroad property must be valued as a basis for taxation, then they would favour the valuation and taxation of railroads as a whole by the Federal Government, and the distribution of the taxes to the different States. Failing that, there should be at least a Federal valuation of the railroads, with an apportionment of the valuation to the different States, leaving it to the individual States to fix their own rates and collect their own taxes. In no case, however, should the valuation be left to a miscellaneous series of local municipalities.

All things considered, they regarded the gross earnings system of taxation as much the best, and were sure that the necessary returns could be quite accurately obtained from the different railroads. At the same time the State tax officials should have the right to investigate the books of the companies.

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